

**AN EXAMINATION OF THE PO-
TENTIAL FOR A DELEGATE
FROM THE COMMONWEALTH
OF THE NORTHERN MARIANA
ISLANDS**

OVERSIGHT HEARING

BEFORE THE

COMMITTEE ON RESOURCES
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

Wednesday, February 25, 2004

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**OVERSIGHT HEARING ON “AN EXAMINATION
OF THE POTENTIAL FOR A DELEGATE
FROM THE COMMONWEALTH OF THE
NORTHERN MARIANA ISLANDS”**

**Wednesday, February 25, 2004
U.S. House of Representatives
Committee on Resources
Washington, DC**

The Committee met, pursuant to notice, at 10:40 a.m., in Room 1324, Longworth House Office Building, Hon. Richard W. Pombo [Chairman of the Committee] presiding.

Present: Representatives Pombo, Miller, Christensen, Bordallo and Flake.

STATEMENT OF HON. RICHARD W. POMBO, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF CALIFORNIA

The CHAIRMAN. The hearing will come to order.

We are fortunate to have with us today individuals who have taken the time to fly thousands of miles from their islands in the North Pacific Ocean. They should be able to help us better understand the relationship both Congress and the Department of the Interior have with the Commonwealth of the Northern Mariana Islands (CNMI).

Our full committee oversight hearing today will focus on an issue of great importance to the United States citizens living in the CNMI. We look to take on a frank examination of the issues surrounding the potential for the CNMI to be provided a nonvoting Delegate to the House of Representatives.

I had the unique opportunity to visit the CNMI and other U.S. insular areas with my fellow committee members, as well as Secretary Gale Norton, in January. If nothing else, let us just say I now fully understand the difficulties in traveling all the way to Washington, as some of those who will testify today have done. I think most members have finally caught up with their sleep after returning about a month ago.

When discussing the issue of a nonvoting Delegate for a U.S. territory, the historical context in which we analyze the need as it applies specifically to the CNMI is important. First, we should consider the long history our country has with the Northern Mariana Islands. The direct importance of the strategic location of these islands during World War II will never be forgotten. Our

Congressional delegation was able to see firsthand the remnants of the Japanese fortification in Saipan when we visited. I was also able to view the island of Tinian, where the Enola Gay departed in 1945 for Hiroshima, Japan, bringing with it an end to the war soon thereafter. The strategic importance of this area can be seen daily when in the CNMI, with two military supply ships in the waters off the coasts of the capital.

Consideration of a nonvoting Delegate should also take into account the historical context in which other current non-State areas of the United States were provided a Delegate in Congress. This includes the territories represented by other members of this committee as well as the District of Columbia. It is my hope that our witnesses can explain this background for us to better weigh the positives and negatives of taking any action in Congress.

Our witnesses today should be able to give us a strong sense of the current socioeconomic progress and the hurdles that remain in CNMI. Most members of this committee can recall the controversies of the 1990s, and it is clear some may want to hear about any changes that have taken place. Still, we hope not to return to the days of overly politicizing this issue, as it remains somewhat separate from the application of the covenant the U.S. Government signed and approved in 1976, as seen in P.L. 94-241.

A thoughtful discussion today should help us highlight the positives and negatives and fully understand any areas that need to be addressed. Both the House and the Senate have introduced multiple bills over the past decade on this issue, though few attempts have been made at seriously examining the issues before legislation is introduced and considered.

We have panelists here today which should be able to give this committee a thoughtful viewpoint as our witnesses represent the Administration, the local CNMI government, as well as someone that has been intimately involved with U.S. insular affairs for many years. Past attempts at moving legislation regarding a nonvoting Delegate from the CNMI left us with few results. Our oversight hearing today should be a fruitful examination, helping us to avoid hasty actions that will prevent properly weighing all facets of this issue in our current economic and social climate.

I thank the witnesses for coming today and I look forward to their testimony.

[The prepared statement of Mr. Pombo follows:]

**Statement of The Honorable Richard W. Pombo, Chairman,
Committee on Resources**

On behalf of the full Committee, I would like to welcome everyone in attendance today and specifically our witnesses. We are fortunate to have with us today individuals that have taken the time to fly thousands of miles from their islands in the North Pacific Ocean. They should be able to help us to better understand the relationship both Congress and the Department of the Interior have with the Commonwealth of the Northern Mariana Islands (CNMI).

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A thoughtful discussion today should help us to highlight the positives and negatives, and fully understand any areas that need to be addressed. Both the House and Senate have introduced multiple bills over the past decade on this issue, though few attempts have been made at seriously examining the issue before legislation is introduced and considered.

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The CHAIRMAN. Ms. Christensen?

**STATEMENT OF HON. DONNA M. CHRISTENSEN, A DELEGATE
IN CONGRESS FROM THE VIRGIN ISLANDS**

Mrs. CHRISTENSEN. Good morning and thank you, Mr. Chairman, for the opportunity to make brief remarks this morning on this very important hearing to examine the potential for a Delegate to Congress from the Commonwealth of the Northern Mariana Islands. I would like to welcome our Deputy Assistant Secretary and Governor Babauta and Resident Commissioner and everyone who has traveled, as you have said, from long distances to be here.

I thought that we should now be past the point of just examining the potential for this delegate, though, and while I have not in the past cosponsored legislation sponsored by my former colleague from Guam, Bob Underwood, to provide for a nonvoting Delegate in the House of Representatives to represent the CNMI, I do support their having a Delegate.

As a Representative, of course, from an insular area, I am keenly aware of the importance of being able to represent the residents of our home island in this body even if we are not able to cast a vote on the Floor of the House, and the CNMI is the only permanently populated U.S. territory without representation in Congress.

Having visited CNMI about 5 years ago, I am also sensitive to the issues that have given a number of my colleagues concern in supporting this legislation and I am informed that much has been done to address those concerns and I have a lot of confidence in the leadership of Governor Babauta to continue that process.

So while I am prepared to support the legislation, I am also interested in hearing how the issues of immigration, labor, and environmental laws are being dealt with and will be dealt with. I look forward to the testimony and to working with all of you to reach some satisfactory resolution on any remaining concerns, or at least having some principles being put into place as to how we would guide the remaining work.

But in the final analysis, these should not be impediments to giving this legislation the full support it deserves. In fact, I think it would be better—these issues would be better addressed with a delegate representing the CNMI, and neither is the major impediment raised before, population size, a factor today.

So I am looking forward to the testimony of our witnesses in this regard and doing all that I can to add a sixth Delegate from the CNMI to this distinguished body.

Mr. Chairman, would you prefer that I yield my remaining time?

The CHAIRMAN. If I could at this time, I have received a request for a couple of very brief opening statements before we get to the witnesses and I would recognize Mr. Flake.

**STATEMENT OF HON. JEFF FLAKE, A REPRESENTATIVE IN
CONGRESS FROM THE STATE OF ARIZONA**

Mr. FLAKE. I thank the Chairman. I appreciate those that have traveled so far. I was able to go on that CODEL and visit these areas and particularly CNMI and I am pleased to help cosponsor this legislation to get it through.

I just want to say that Arizona, the State that I represent, had a Delegate to Congress ever since 1864. From 1864 to 1912, when Arizona was a territory, we had a Delegate, and at the beginning, there were only 10,000 citizens represented. CNMI has a lot more than that, so I am pleased to be in support of this legislation and look forward to the hearing.

The CHAIRMAN. Ms. Bordallo?

**STATEMENT OF HON. MADELEINE Z. BORDALLO, A DELEGATE
IN CONGRESS FROM GUAM**

Ms. BORDALLO. Thank you very much, Mr. Chairman, for this opportunity, and a warm "Hafa adai" to our neighbors from the CNMI.

Mr. Chairman, just very briefly, I want to thank you very, very much for your interest in the Pacific territories, as evidenced by your leading a delegation to seven islands recently. As Chairman of the Resources Committee with jurisdiction over the territories, it was of utmost importance that you become familiar with our territories and our issues, and you did just that.

I also want to mention the fact that the Secretary of Interior was on that CODEL, as well as just about every member up here except for Representative Christensen, who is in the wrong side of the—not in the right ocean, let us just put it that way.

Mrs. CHRISTENSEN. Thank you.

[Laughter.]

Ms. BORDALLO. But thank you so much, Chairman Pombo. It meant a great deal to the people of Guam.

Chairman Pombo, Ranking Member Rahall, and members of the Committee, I would first like to welcome our neighbors from the Commonwealth of the Northern Mariana Islands, to Governor Babauta, Senate President Adriano, Senators Crisostamo, Mendiola, Villagomez, and San Nicholas, and Representative Maratita. I also want to welcome Resident Representative Pedro Tenorio, my good friend, and I hope that very soon the day will come where you, Mr. Tenorio, will join us in the House of Representatives as a Delegate from the Northern Marianas.

Mr. Chairman, I commend you for holding this oversight hearing and I hope that this hearing opens a new dialog that will lead to a Delegate bill for the CNMI. I strongly support the CNMI having a Delegate to Congress. Guam's own experience as a territory since the Organic Act of 1950 is a case for having a Delegate to Congress who will represent the territory's interests and who will be an advocate and a source of information for Federal policymakers.

I am confident that Governor Babauta, Resident Representative Tenorio, and the leaders of the CNMI will make a compelling case for representation in Congress. As fellow American citizens, the residents of CNMI should be represented in the law making body that affects their daily lives. It seems to me that with American citizenship comes responsibilities and privileges, and among those privileges, representation in the House of the People is not only appropriate, but necessary to give full meaning to citizenship.

There are historical reasons why the CNMI has not been granted a delegate to this day and there are concerns that other members of Congress have raised in the past. I hope that the recent efforts of Governor Babauta in the CNMI government would help to answer questions and reaffirm the good relationship between the CNMI and the Federal Government.

There are many issues regarding the CNMI that ought to be aired, and these issues point to the need for a Delegate in Congress to speak for and answer for the CNMI. Representation should not be based on good behavior, and it should not be a reward for having one policy or another. Representation should be based on American values of democracy and fairness. Participation in a democracy is an inalienable right of citizens, and this right is not contingent on a litmus test.

So, Mr. Chairman, thank you for giving me this opportunity. Again, thank you on behalf of the people from the islands for your visit.

The CHAIRMAN. Thank you.

[The prepared statement of Ms. Bordallo follows:]

Statement of The Honorable Madeleine Z. Bordallo, a Delegate in Congress from Guam

Chairman Pombo, Ranking Member Rahall and Members of the Committee:

I would first like to welcome our neighbors from the Commonwealth of the Northern Mariana Islands (CNMI), and wish a warm "Hafa adai" to Governor Babauta, Senate President Adriano, Senators Crisostomo, Mendiola, Villagomez and San Nicholas and Representative Maratita. I also want to welcome Resident Representa-

tive Pedro Tenorio and I hope that very soon the day will come where Mr. Tenorio joins us in the House of Representatives as the Delegate from the Northern Mariana Islands.

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There are historical reasons why the CNMI has not been granted a Delegate to this day, and there are concerns that other Members of Congress have raised in the past concerning this issue. I hope that the recent efforts of Governor Babauta and the CNMI government would help to answer questions and reaffirm the good relationship between the CNMI and the federal government. There are many issues regarding the CNMI that ought to be aired and these issues point to the need for a Delegate in Congress to speak for and answer for the CNMI. Representation should not be based on "good behavior," and it should not be a reward for having one policy or another. Representation should be based on American values of democracy and fairness—participation in a democracy is an inalienable right of citizens, and this right is not contingent on a litmus test.

Mr. Chairman, the Congressional Delegation you recently led to the Pacific included a visit to the Northern Marianas. I am confident that the Committee has a much better understanding of the issues that will be raised here today. This hearing will help to foster a fresh dialogue and, hopefully, bring a new understanding that will result in a Delegate bill being supported and passed by both sides of the aisle. Thank you, Mr. Chairman, Si Yu'os Ma'ase.

The CHAIRMAN. Mrs. Christensen?

Mrs. CHRISTENSEN. I would just like to ask that the remarks of Representative Nick Rahall, the Ranking Member, be included in the record.

The CHAIRMAN. Without objection.

[The prepared statement of Mr. Rahall follows:]

**Statement of The Honorable Nick J. Rahall, II, a Representative in
Congress from the State of West Virginia**

Mr. Chairman, let me begin by first thanking you for convening this hearing to examine the potential for establishing a non-voting delegate from the Commonwealth of the Northern Mariana Islands to the House of Representatives (CNMI). I am pleased that throughout this Congress we have been able to work together on issues affecting Pacific issues under the jurisdiction of our Committee.

I also want to warmly welcome our witnesses here this morning - most especially, those who have traveled here from the CNMI—Governor Babauta and Senate President Adriano. Of course your representative, Mr. Tenorio, has become a familiar face to us with his diligence in representing the people of the CNMI on a daily basis here in Washington, D.C.

I support the creation of a non-voting delegate from the CNMI to the House of Representatives. I believe it to be a fundamental tenet of our republican form of government.

As Members of Congress, representing of our respective districts is a privilege granted to us by our constituents. The right for them to be represented lies in democracy.

In 1996, this Committee made two attempts at passing legislation to create such a CNMI non-voting delegate office. The first failed and the second succeeded but without further consideration by the House.

It was not only unfortunate that our Committee at the time held no such hearings on the legislation, but also a disservice to many of my colleagues who expressed concern over CNMI's labor and immigration practices.

As you know, the CNMI came under heavy scrutiny by Congress in the 1990's for the rampant abuse over local control of immigration and the treatment of non-resident guest workers recruited into the CNMI. Many Members of Congress, including myself, continue to monitor your progress on that front.

Governor—if you will—I believe that your election into office was the first indication that the people of the CNMI were serious about the changes needed to take seriously your unique status and self-governing authority, and repair the CNMI's relationship with Congress.

I am aware that there has been significant reform under your leadership. And most recently, the garment association has joined you in opposition to lifting the moratorium on guest workers which was initially enacted locally in response to concerns from Congress.

I am sure their position was a welcomed and unexpected development to everyone—yet it underscores how far you've come since the 1990's.

In the interest of moving forward with getting approximately 35,000 fellow Americans represented in the Congress, we look forward to hearing the testimony from our witnesses.

The CHAIRMAN. I would say to my colleague from Guam, that was a very good opening statement and that is something that I think we all need to keep in mind as we move through this hearing. That was very well said.

I would like to introduce our first panel. I would like to welcome Mr. David Cohen, the Deputy Assistant Secretary of the Interior for Insular Affairs at the Department of Interior, to our hearing today to talk about how the Administration views this topic.

Mr. Cohen is also accompanied today by Mr. James Benedetto, the Federal Ombudsman with the Department of Interior. He will not be making a formal statement but is available for questions from members. Given that he works daily on the ground in the Commonwealth, his input should prove to be valuable.

Before Mr. Cohen gives his testimony, I wish to continue the customary practice of swearing in all witnesses as provided under Rule 4(f) of the House rules. If I could have you both stand and raise your right hand.

Do you solemnly swear or affirm under the penalty of perjury that the statements made and the responses given will be the whole truth and nothing but the truth?

Mr. COHEN. I do.

Mr. BENEDETTO. I do.

The CHAIRMAN. Let the record show they both answered in the affirmative.

Welcome to the Committee. Mr. Cohen, I don't think we have had the opportunity to talk to each other since we were in the islands together, but it is nice to see you back. Mr. Benedetto, it is great to have you here and to be able to participate in this hearing.

Mr. Cohen, if you are ready, you can begin.

STATEMENT OF DAVID COHEN, DIRECTOR, OFFICE OF INSULAR AFFAIRS, U.S. DEPARTMENT OF THE INTERIOR; ACCOMPANIED BY JAMES J. BENEDETTO, FEDERAL OMBUDSMAN, OFFICE OF THE OMBUDSMAN, U.S. DEPARTMENT OF THE INTERIOR

Mr. COHEN. Mr. Chairman and members of the Committee, I am pleased to appear today to discuss whether the CNMI should be

represented by a nonvoting Delegate to the U.S. House of Representatives.

First, I note that the CNMI is the only permanently populated community in the entire country without representation in Congress. Every other territory and commonwealth has a Delegate to the House of Representatives, as does the District of Columbia. Every U.S. citizen living in any part of America has a member of Congress that represents him or her except for the U.S. citizens living in the CNMI. Issues vitally important to health, education, welfare, economic development, security, and other matters in the CNMI are decided in these chambers. The Commission on Federal Laws, appointed by President Reagan, recommended in 1986 that the CNMI have a nonvoting Delegate to the House of Representatives.

My written statement lists a number of important contributions that the CNMI has made and continues to make to protecting the freedom and security of all Americans.

As you know, there was much debate in the mid-1990s regarding CNMI labor and immigration issues. Most of this debate related to the garment industry. I am pleased to report that a great deal of progress has been made since then and much of the credit goes to Congress. My written statement discusses this progress in greater detail.

One factor contributing to the improvement of conditions was the establishment of the Office of the Federal Ombudsman, a Federal employee who works with Federal and local authorities to protect the rights of foreign workers. The first Ombudsman was an attorney named Pam Brown. Those who initially opposed reform were highly suspicious of her and the role of her office. Her relationship with the CNMI government in office at the time was initially rather difficult. Here is perhaps the most telling sign that things have changed in the CNMI. Pam Brown is now the Attorney General of the CNMI.

We are heartened by the progress that has been made. We are committed to continuing to work with the CNMI to continue this progress. However, we should be careful to avoid the suggestion that this progress is a prerequisite that the CNMI must satisfy in order to deserve representation. We would not want to suggest that we are holding the people of the CNMI collectively responsible for problems that involve just a few members of the local population.

Let us consider the stories of two Americans, Army Captain James Pangelinan and Army Specialist Monique Sablan. Captain Pangelinan's father is my friend, Ed Pangelinan, who is here today, and a quick historical detour about the father is in order.

Ed is one of the founding fathers of the CNMI. He led the Northern Marianas team that negotiated the U.S.-CNMI covenant. In those days, the Northern Marianas were part of the Trust Territory of the Pacific Islands, which the U.S. had administered since just after World War II. The three other island groups in the old trust territory all chose to become sovereign nations rather than to join the U.S. The U.S. has worked hard to nurture each of those three new sovereign nations into a fully functioning democracy in which every community is represented in an elected national legislature. Ed Pangelinan dreams of the day that the CNMI, which he helped

to lead into the American family, will be represented in the elected national legislature of his country, the United States of America.

Like his father, Captain James Pangelinan is proud to be an American. He graduated from West Point. He is now serving with the 25th Infantry Division in Iraq, patrolling through the treacherous Suni triangle.

Specialist Monique Sablan, a soldier in the 101st Army Airborne Division from Saipan, is one of hundreds of CNMI residents currently on active duty in the U.S. military. She was serving in Iraq when her convoy was bombed. Her leg was badly injured and she was evacuated to Germany and then on to Walter Reed. She remains in a hospital bed recovering from her wounds, and I had the honor of visiting her last week to personally thank her for the sacrifice that she has made for her country.

Captain Pangelinan and Specialist Sablan have put their lives on the line so that the people of Iraq can achieve the dream of a democracy in which every community is represented in an elected national government. Other soldiers from the CNMI are fighting so that the people of Afghanistan can achieve the same dream.

Mr. Chairman, these brave young men and women from Saipan, from Tinian, from Rota, have the same dream for themselves as they do for the peoples of Iraq and Afghanistan. They dream of being represented in the national legislature of their country, the country whose uniform they proudly wear, the country that they proudly defend. They dream that they will 1 day have the representation that has been afforded to every other State, territory, and commonwealth in the American family.

Mr. Chairman, the Administration supports the concept that the CNMI be represented by a nonvoting Delegate to the U.S. House of Representatives. We look forward to working with you and the Committee on this important issue. Thank you.

The CHAIRMAN. Thank you very much.

[The prepared statement of Mr. Cohen follows:]

Statement of David B. Cohen, Deputy Assistant Secretary of the Interior for Insular Affairs, U.S. Department of the Interior

Mr. Chairman and members of the Committee on Resources, I am David Cohen, and I appear before you today wearing at least two hats: I am the President's Special Representative for the ongoing U.S. discussions with the Commonwealth of the Northern Mariana Islands (CNMI) under the U.S.-CNMI Covenant, and am the Deputy Assistant Secretary of the Interior for Insular Affairs. It is my pleasure to appear here today to discuss whether the CNMI should be represented by a non-voting delegate to the U.S. House of Representatives.

I recognize, Mr. Chairman, that this issue deals with how the House of Representatives is to be organized. Let me assure you that we completely respect the prerogative of the Congress to decide for itself how it will be organized and how it will allocate its internal operating budget.

I also recognize that no actual bill on this subject has yet been introduced. If a bill is introduced, we will certainly work with you on that legislation.

Nevertheless, you have solicited our thoughts on the subject, and we are pleased to be responsive to your request. I thought that it might be useful for me to provide some of our historical perspective and thoughts on the issue.

First, I note that the CNMI is the only permanently populated community in the entire country without representation in the U.S. Congress. Every other U.S. territory and commonwealth has a Delegate to the U.S. House of Representatives, as does the District of Columbia. Every U.S. citizen, living in any part of America, has a member of Congress that represents him or her, except for the U.S. citizens living in the CNMI. The CNMI has a larger population than American Samoa, which has

a Delegate to Congress, and people born in American Samoa are non-citizen U.S. nationals rather than U.S. citizens.

As with all of the territories, issues vitally important to health, education, welfare, economic development, security and other matters in the CNMI are decided in these Chambers. The Commission on Federal Laws, appointed by President Reagan in accordance with Section 504 of the U.S.-CNMI Covenant, recommended to Congress in 1986 that the CNMI have a non-voting Delegate to the U.S. House of Representatives.

Although the CNMI is a small, isolated outpost of America, it has made, and continues to make, important contributions to the protection of freedom and security of all Americans:

- After the U.S. took Saipan from the Japanese late in World War II, the U.S. Marines recruited men from the island to patrol enemy pockets of resistance. This unit became known as the Marianas Marine Scouts and participated in combat against enemy forces. In 1999, the U.S. formally recognized the services of the Marianas Marine Scouts and gave them official Veterans' status.
- On August 6, 1945, a B-29 bomber, known as the Enola Gay, left its base on Tinian Island in the Northern Marianas and entered history when it delivered the first atomic bomb on Hiroshima, Japan. Three days later, another B-29, known as Bocks Car, took off from Tinian and dropped a second atomic bomb on Nagasaki. The combined devastating effect of these two atomic bombs were enough to convince the Japanese High Command to accept American surrender terms, thus saving the lives of hundreds of thousands of Americans and Japanese who would have been casualties in an invasion of Japan.
- During the Cold War, Saipan housed a highly classified CIA training base. Trainees would be flown in from various Asian countries, trained, then sent back to spy on the Communists and other groups in which the CIA was interested. This training facility was viewed as a vital part of our nation's efforts to counter communism in Asia.
- In the 1980's, the CNMI provided valuable land and logistical support to the U.S. Air Force's plan to install and operate a long-range, over-the-horizon radar at the northern end of Saipan. The purpose of the classified facility was to extend the military's early warning system against aircraft or missile attacks from the Soviet Union and other Asian nations.
- For the last several years, the CNMI has been host to a number of pre-positioned ships, placed there with vital military cargo by the U.S. military for use in emergency situations in the Pacific.
- Today, U.S. military fighter planes use the tiny island of Farallon de Medinilla in the CNMI, located about 45 miles from Saipan, for bombing practice. The island is the only live fire bombing range available to the Department of Defense in the Pacific and is regarded as vital for helping the military maintain a high level of readiness.

We are all aware, Mr. Chairman, that there was much heated debate in the mid-1990s regarding CNMI labor and immigration issues. Most of this debate related to the garment industry. I am pleased to report that a great deal of progress has been made since then, and much of the credit goes to members of Congress who worked hard to ensure that the rights of alien workers were protected.

In the years since the height of the controversy, the CNMI government, the Federal Government and the garment industry itself have all taken major steps to improve labor conditions in the CNMI and to protect the rights of workers. The CNMI government has enacted several reforms since the mid-1990s and has, especially in recent years, established a very good working relationship with Federal authorities. Last September I was pleased to sign, along with Governor Juan Babauta, an historic agreement whereby the CNMI agreed to cooperate with Federal authorities to combat human trafficking and to establish asylum procedures to protect foreign workers.

The garment industry has also made very substantial improvements. In 2000, the Saipan Garment Manufacturers Association entered into a partnership with the Occupational Safety and Health Administration to improve working conditions in the garment industry. OSHA's Regional Administrator recently reported to me the following: "We believe through our joint efforts with the industry, there has been a marked improvement in the safety and health and living conditions of the workers in Saipan. Although there is still more room for improvement, we believe the industry is voluntarily on the road to making their operations a model." Mr. Chairman, I have toured garment factories on Saipan, including a recent tour in which I accompanied you and other members of this Committee. I would defer to the greater expertise of the Regional Administrator, but have noted nothing that would lead me to disagree with him.

Another factor contributing to the improvement of labor conditions in the CNMI is the increased Federal presence in the islands, initiated largely by Congress through the CNMI Initiative on Immigration, Labor and Law Enforcement. That initiative provided the initial funding for several key Federal agencies, such as OSHA, the Department of Justice and the Department of Labor, to establish a presence in the CNMI, where they work cooperatively with the CNMI government and the business community to address problems. Prior to receiving funding under the initiative, none of these agencies had a major presence in the CNMI. This almost certainly contributed to a lack of understanding in this newest of American communities about what the Federal Government requires in the way of worker protection. The CNMI Initiative has also funded the Federal Ombudsman, a Federal employee who works with Federal and local authorities to ensure that the rights of foreign workers are protected.

The first Federal Ombudsman was an attorney named Pam Brown. Those who initially opposed reform were highly suspicious of her and the role that her office was to play. Her relationship with the CNMI government in office at the time was initially rather difficult. Here is perhaps the most telling sign that things have improved in the CNMI: Pam Brown is now the Attorney General of the CNMI, having been hand-picked by the new Governor, Juan Babauta, and confirmed by the CNMI Legislature. I am proud to report that her successor, Jim Benedetto, whom I hired, has also been an extremely effective advocate for the rights of alien workers. He has an excellent working relationship with Attorney General Brown and with the rest of the CNMI government.

We are heartened by the progress that the CNMI has made in recent years. We are committed to continuing to work with the CNMI to continue this progress.

But even as we congratulate the CNMI for the tremendous progress that it has made on labor issues, we should be careful to avoid the suggestion that this progress is a prerequisite that the CNMI must satisfy in order to enjoy representation. We would not want to inadvertently create the impression that we are holding the people of the CNMI collectively responsible for problems that involve just a few members of the local population.

As Congress considers these issues, Mr. Chairman, it may be helpful to consider the stories of two Americans: Army Capt. James G. Pangelinan and Army Specialist Monique Sablan.

Capt. Pangelinan's father is my friend, Ed Pangelinan, and a quick historical detour about Ed Pangelinan is in order. Ed Pangelinan is one of the Founding Fathers of the CNMI. He led the delegation from the Northern Marianas that negotiated the U.S.-CNMI Covenant. At the time of those negotiations, the Northern Marianas were part of the Trust Territory of the Pacific Islands, which the U.S. had administered since the aftermath of World War II. The three other island groups in the old Trust Territory all chose to become sovereign nations rather than to join the U.S. The U.S. has worked hard to nurture each of those three new sovereign nations into a fully functioning democracy, in which every community is represented in an elected national Legislature. Ed Pangelinan dreams of the day that the CNMI, which he helped to lead into the American family, will be represented in the elected national Legislature of his country: the United States of America.

Like his father, Capt. James Pangelinan is proud to be an American. He graduated from West Point. He is now serving with the 25th Infantry Division in Iraq, patrolling through the treacherous Sunni Triangle.

Specialist Monique Sablan, a soldier in the 101st Army Airborne Division and from the island of Saipan, is one of hundreds of CNMI residents currently on active duty in the U.S. military. She was serving in Iraq when her convoy was bombed. Her leg was badly injured, and she was evacuated to Germany, and then on to Walter Reed Army Medical Center here in Washington. She remains in a hospital bed recovering from her wounds, and I had the honor of visiting her last week to personally thank her for the sacrifice that she has made for her country.

Capt. Pangelinan and Specialist Sablan have put their lives on the line so that the people of Iraq can achieve the dream of a democracy, in which every community is represented in an elected national government. Other servicemen and service-women from the CNMI are fighting so that the people of Afghanistan can achieve the same dream.

Mr. Chairman, these brave young men and women from Saipan, from Tinian, from Rota, have the same dream for themselves as they do for the peoples of Iraq and Afghanistan. They dream of being represented in the national Legislature of their country, the country whose uniform they proudly wear; the country that they proudly defend. They dream that they will one day have the representation that has been afforded to every other state, territory and commonwealth in the American family.

Mr. Chairman, as I noted earlier, we recognize that it is the prerogative of Congress to decide this issue, within the limits set by the Constitution, which are discussed in the decision of the U.S. Court of Appeals for the D.C. Circuit's decision in *Michel v. Anderson* (14 F. 3d 623). Consistent with the recommendation of the President's Commission on Federal Laws in 1986, the Administration continues to support the general concept that the CNMI should be represented by a non-voting delegate to the U.S. House of Representatives. We look forward to working with you and the Committee on this important issue.

The CHAIRMAN. Let us just start with if we were to give CNMI a nonvoting Delegate, how would that change, or would it change the relationship between the Department of Interior and the Federal Government and the government in CNMI? What would be the actual changes on the ground?

Mr. COHEN. Mr. Chairman, that is a very good question. I would think there would be very little change in the day-to-day relationship. Because the CNMI does not have a Delegate to Congress and is the only territory that does not have a Delegate to Congress, we at the Department of Interior believe we have an enhanced relationship with the CNMI and, I would say, an enhanced responsibility to ensure that the views of the CNMI are properly understood in all branches of the Federal Government.

So when they have the opportunity to speak for themselves in this body, it would change somewhat. We have very close relationships with all the Delegates to the territories. They are part of our everyday work. Of course, they have the clout that comes with representation in Congress and we have to take that into account when we try to be fair to all of the territories.

If the CNMI joins this body, as well, it will slightly alter the equation in favor of the CNMI and that would probably be the primary change.

The CHAIRMAN. Do you have any estimate, or has there been an estimate put together on what the costs would be to the Federal Treasury of including a new nonvoting Delegate?

Mr. COHEN. In the past, people have estimated the cost of a CNMI Delegate as being roughly equivalent to what it costs to have a Delegate from Guam because of similar geography, the travel, et cetera, which last time I checked was approximately \$1.1 to \$1.3 million per year out of the legislative budget.

The CHAIRMAN. If I could, Mr. Benedetto, over the years, as this has been attempted before, it seems that there have been controversies that have come up. What can you report back in terms of the changes that have happened in the last 10 years, particularly in Saipan but in CNMI in general that would respond to what some of the past controversies were?

Mr. BENEDETTO. Mr. Chairman, before I answer, I would like to thank you and the members of the Committee for inviting me here to testify today. There have been a number of reforms enacted in the last 10 years and there has been a very fundamental change in the relationship between the Ombudsman's Office and the local government. We now work cooperatively together.

We have, during the past 18 months, signed a Memorandum of Agreement which allows us to share information so that they can open up cases more quickly and we can respond with helpful information a lot more quickly. We have worked together on some

significant projects. The Memorandum of Agreement that we negotiated also provides for them running regulation and statutory changes by the Ombudsman's Office prior to those things being published so that we can give some sort of an opinion as to how those changes, those proposed changes, might affect our caseload and the people whose interests we serve.

So I would say that the relationship is very, very positive and that there has been a lot of significant progress.

The CHAIRMAN. Before I run out of time, I wanted to go back to Mr. Cohen for a second. Would there be, in your mind, and I don't know if this is an official position or not, but in your mind, would there be any reason to bring CNMI in as a nonvoting Delegate in a way that would be any different than, or under different rules than what we have done in the past, whether it be with the Virgin Islands or Guam or Samoa or anybody else? Should it not be done in the exact same way and under the same conditions that we have dealt with other Delegates in the past?

Mr. COHEN. Mr. Chairman, I cannot think of a reason that we would want to treat the CNMI any differently than we treat any of the other territories or commonwealths that have a Delegate or any that have in the past. I would think that we would want to admit the CNMI to Congress under the exact same rules that apply to all the other nonvoting Delegate.

The CHAIRMAN. Thank you very much.

Mrs. Christensen?

Mrs. CHRISTENSEN. Thank you for your testimony. I just have two brief questions. Prior to your testimony here today, was the Reagan Administration via the Commission on Federal Laws the last Administration to speak to the issue or make a recommendation with regard to Congressional representation from the CNMI?

Mr. COHEN. Congresswoman, I am not sure of the answer to that. I believe the answer is yes, the Administration has not taken a position since then. I believe under the Clinton Administration, no position was taken, but I would have to check that for you.

Mrs. CHRISTENSEN. Thank you. My second question, in your testimony, you make mention of both the historical and present day significance of the CNMI with regard to military training. Considering the prepositioning of ships with vital military cargo in their waters, the FDM bombing range and any other military exercises conducted within their islands, has the Administration conducted any border security analysis to assess the consequences of CNMI's control over immigration? This is something I would be interested in, especially since I sit on the Homeland Security Committee.

Mr. COHEN. Sure. The Administration has not officially done that to my knowledge. There was a report commissioned by the Federal District Court for the District of the Northern Marianas, as well as the District of Guam, that is not a public report and that is very controversial in many people's views, that attempted to address issues like that using open source material and anecdotal evidence only. But to my knowledge, there has not been an official assessment of that.

Having said that, we do know that the Department of Homeland Security has, in my experience, a good, cooperative working relationship with the CNMI and is aware of the needs of the CNMI

and the other territories. It is my understanding that they are familiar with the situation and continually monitoring CNMI's needs in that regard.

Mrs. CHRISTENSEN. Was that report done in this Administration?

Mr. COHEN. I believe it was done in 2002. Again, it is not a public document, but it is post-9/11, yes.

Mrs. CHRISTENSEN. Are you aware if any other previous Administrations made any recommendations regarding border security and its relationship to control over immigration?

Mr. COHEN. Regarding border security specifically? I am not sure. I do know that during the Clinton Administration, there were reports done out of my office that advocated certain policies regarding immigration and used as justification for those recommendations border security and other issues, as well. But I don't know if those rose to the level of an official Administration position or recommendation.

Mrs. CHRISTENSEN. I look forward to working with the Governor and the Resident Representative to represent their concerns and to bring some resolution, if need be, to that through the /Committee. Thanks.

The CHAIRMAN. If I could just follow up on that, and I know in the post-9/11 world border security is becoming more and more of an issue and something that we are all paying a lot more attention to, and I was just wondering if you could tell me, is it any easier for someone to sneak into Saipan or Guam or any of our territories than it is to come across the border of Southern California?

Mr. COHEN. Mr. Chairman, as you know, I, like you, am from California and I don't think—it appears sometimes that nothing is easier than sneaking across the border into Southern California. It is hard to compare the situations, crossing over land and having miles and miles of coastline that need to be patrolled, but I can't imagine that it is significantly easier to sneak into Saipan or Guam or the rest of the CNMI than it is to sneak into the Southern United States, although certainly it does present numerous challenges to prevent people from being smuggled into an island chain like the Marianas.

The CHAIRMAN. I also flew across several thousand miles of water before I got there, so—

[Laughter.]

Mrs. CHRISTENSEN. Mr. Chairman? Would the Chairman yield just a minute?

The CHAIRMAN. Yes.

Mrs. CHRISTENSEN. I would tell you that Homeland Security is visiting my territory. We are not as isolated as Guam and CNMI, so we do have some border issues and our borders, I think, are extremely porous, so we will be looking at that this weekend.

The CHAIRMAN. I appreciate that and I think that is an issue that your committee is dealing with and the entire Congress is dealing with on a much bigger and broader scale than just CNMI or Guam.

Mr. COHEN. Mr. Chairman, can I add a quick postscript to that?

The CHAIRMAN. Sure.

Mr. COHEN. Because sometimes the notion that it is difficult to protect all of the coastline in an island chain has been used to

suggest that it therefore presents an enhanced threat to the mainland United States, because if you can smuggle people into the CNMI, then that is a stepping stone to being smuggled into the United States. But because the CNMI is outside of the immigration territory of the United States because it is not covered by the INA, we treat airplanes and ships and what have you coming from the CNMI as if they were coming from a foreign country, so they still have to pass immigration and customs and all of that. So it should be no easier to smuggle people or cargo in from the CNMI to the mainland than it would be to smuggle them in from a foreign country.

The CHAIRMAN. Ms. Bordallo?

Ms. BORDALLO. Thank you, Mr. Chairman. I am delighted that our Chairman now knows the distance—

[Laughter.]

Ms. BORDALLO.—and he is, I am sure, going to be—

The CHAIRMAN. I know it very well.

[Laughter.]

Ms. BORDALLO. He is going to be alluding to that now and then in the Committee, so I am very pleased about that.

I have a question, one question for you, Secretary Cohen. The history of the covenant negotiations suggests that there was a correlation between the island's population at that time and Congressional representation. So to your knowledge, was the recommendation made by the Commission on Federal Laws based on a larger population in the CNMI in 1986 versus the covenant negotiation in the mid-1970s, and what is the population now?

Mr. COHEN. Thank you, Congresswoman. The population now, according to the latest census, is over 69,000. I think most people believe that it is over 70,000 in actual fact today. The population at the time of the execution of the covenant was, I believe, between 15,000 and 20,000 people, and since then, of course, the population has virtually exploded.

It is possible that the Commission on Federal Laws' recommendation was in part based on the fact that there was a larger population. We admitted American Samoa, or we afforded American Samoa representation in Congress when their voting population was about 27,000. Of course, CNMI has exceeded that.

But having talked to people who participated in the actual talks, although the low population has been cited publicly as one of the reasons that a Delegate was not afforded with the original covenant, the people that I have talked to who participated in the talks say that the thought was that this was really too much to handle in addition to getting the covenant approved, if the prospect was to go to Congress and not only approve a very complex document such as the covenant but also approve a new Delegate to Congress, that might have been too much to deal with at one time and that the Delegate issue should be put off until later. So I have heard both explanations.

Ms. BORDALLO. So it wasn't then just an issue of population?

Mr. COHEN. Yes. I have heard both explanations and some have said that it is an issue of population, but others I have spoken to have said that it was not just an issue of population.

Ms. BORDALLO. But certainly that wouldn't be an issue now.

Mr. COHEN. That is correct.

Ms. BORDALLO. The other question I have, Mr. Chairman, is to Mr. Benedetto. You have been in the CNMI now since when, 1999?

Mr. BENEDETTO. That is correct.

Ms. BORDALLO. And then became the Federal Labor Ombudsman for well over a year now, is that correct?

Mr. BENEDETTO. Yes, ma'am.

Ms. BORDALLO. Can you give the Committee your impression of the difficulties that you have had in this position with dealing with the CNMI prior to you being in your current position?

Mr. BENEDETTO. I am sorry, ma'am, could you repeat that question?

Ms. BORDALLO. Could you give the Committee your impression of the difficulties that you have had dealing with CNMI officials prior to you being named the Ombudsman, and then can you give us your firsthand knowledge of the collaboration your office has now with some of the officials?

Mr. BENEDETTO. I had little or no difficulty dealing with the CNMI government officials because for the 3 years prior to my being the Federal Ombudsman, I was a prosecutor in the Attorney General's Criminal Division with the CNMI and then in their Civil Division for 2 years, and a portion of that time I was their Deputy Attorney General.

Ms. BORDALLO. So you say you have had no difficulties—

Mr. BENEDETTO. No, ma'am.

Ms. BORDALLO.—since you have taken over?

Mr. BENEDETTO. Since I have taken over, it has been pretty uniformly good. The Governor himself has invited me to his office to—he said, basically, if you ever have any problems with anybody, I want you to come and see me directly. The Governor's legal counsel, the Attorney General, and certainly Dr. Jack, the Secretary of Labor, they have all been very uniformly helpful, courteous, and we have a very productive relationship.

Ms. BORDALLO. Good. Thank you. Thank you very much, Mr. Chairman.

The CHAIRMAN. Before I excuse this panel, I want to just ask one additional question and it goes back to the first question I asked. If we did have a voting Delegate who could play a much more active role in Congress, would it help in terms of working with the Administration on enforcing different laws, you know, when you talk about labor laws and everything else, would it put him or her in the position that they would have a better or more direct working relationship with the Administration to work on some of these issues? If I could start Mr. Benedetto on that, just trying to think through where we ultimately end up with this.

Mr. BENEDETTO. I think it would enhance the ability of the government to enforce those laws, Congressman. One of the problems that we have now is a little bit of an inadequate enforcement response and that is actually just as much Federal responsibility as it is CNMI responsibility. So at one time, we had offices in Saipan for the U.S. Labor Department Wage and Hour Division, the EEOC, the NLRB, and others. And now we are down to basically U.S. Wage and Hour.

If there was a nonvoting Delegate, I believe that Delegate could advocate to have a larger Federal presence so that EEOC, for example, could step up their enforcement role, although they have been quite responsive and they are doing an excellent job even though they don't have an office on Saipan.

The CHAIRMAN. Thank you very much. I want to thank the panel not only for your testimony, but your openness in answering the questions. Thank you very much for being here.

Mr. COHEN. Thank you, Mr. Chairman.

Mr. BENEDETTO. Thank you.

The CHAIRMAN. I would like to call up our second panel, the Honorable Juan N. Babauta, Governor, Commonwealth of the Northern Mariana Islands; the Honorable Pete A. Tenorio, Resident Representative, Commonwealth of the Northern Mariana Islands; and the Honorable Joaquin Adriano, Senate President, CNMI Senate.

If I could, before you gentlemen take a seat, if I could have you raise your right hand.

Do you solemnly swear or affirm under the penalty of perjury that the statements made and the responses given will be the whole truth and nothing but the truth, so help you, God?

Mr. BABAUTA. I do.

Mr. TENORIO. I do.

Mr. ADRIANO. I do.

The CHAIRMAN. Thank you very much. Let the record show that they answered in the affirmative.

Panel two consists of a group of individuals elected by and representing the people of CNMI. Some of these witnesses have flown thousands of miles to be with us today. I would like to begin with the Governor, Mr. Babauta, and thank you very much not only for your willingness to be here today, but also for the kindness and the openness that you showed us when we recently had the opportunity to visit Saipan. It was a real learning experience, I think, for all the members of the Committee who made the effort to go. It was something that I had wanted to do for a long time, and having the opportunity to be there and see it was very fulfilling for all of us, so thank you very much for being here, Governor.

STATEMENT OF JUAN N. BABAUTA, GOVERNOR, COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Mr. BABAUTA. Mr. Chairman, it was an honor and a great pleasure to have had you in Saipan along with the other members of the CODEL and Secretary Norton.

Mr. Chairman, thank you for holding this hearing on the potential for representation in Congress for U.S. citizens of the Northern Mariana Islands, and thank you for your concern that you have shown for our islands, and as Chairman of the Resources Committee, particularly leading a CODEL there last month together with Secretary Norton.

This committee has previously recognized the need to extend to the people of the Northern Mariana Islands, and I quote, "that which is fundamental to Americans in our democracy, the right to have a voice in their own government." That report language accompanied H.R. 4067, a bill creating a Delegate for the Northern

Marianas when it was placed on the Union Calendar in late 1996 by the favorable action of this committee.

Some of you were not committee members in 1996, so let me explain that in addition to identifying the fundamental right of citizens to be represented in the Congress, the Resources Committee also detailed a 200-year history of representation for citizens who live in areas of our nation that are not States. This representation was recognized to be necessary almost from our nation's beginning, as has been alluded earlier. Today, U.S. citizens in every non-State area—American Samoa, Guam, Puerto Rico, the Virgin Islands, and even the District of Columbia—are represented in Congress. Only the U.S. citizens of the Northern Marianas are not.

Given that this committee has already set out the rationale and the historical precedent for establishing a Northern Marianas Delegate, I will not belabor that point here at this hearing, Mr. Chairman.

I do want to confirm, and our Resident Representative Pete Tenorio and Senate President Joaquin Adriano and other members of the elected officials from the NMI, members of the legislature, those who are here today from the Marianas can attest that our people still want a voice in Congress.

I am submitting for the record further confirmation of that desire, Joint Resolution 14-13, adopted by the Northern Marianas House of Representatives on February 10, just last month, or this month, rather.

And I want you to know that the nation's Governors this week renewed their support for a Northern Marianas Delegate. Their policy reads, and I quote, "In keeping with the American traditions of a participatory democracy and basic fairness, the National Governors Association urges Congress to enact legislation to provide the people of the Northern Mariana Islands with representation that U.S. territories have historically been granted, a Delegate in the U.S. House of Representatives."

I want to close, Mr. Chairman, by addressing a significant change in circumstances since 1996, a change I believe should further convince this committee to give the people of the Northern Marianas a Delegate.

Our country is currently at war. American men and women are putting their lives on the line in order to give the people of Iraq the long-denied ability to vote in democratic elections and to be represented by elected officials in an Iraqi national government. We believe that assuring the people of Iraq the right to be represented is worth dying for. We do not condition this right to be represented on ethnicity or political viewpoint or any individual behavior. We assume each individual's right to be represented is fundamental.

In 1996, when this committee decided that the U.S. citizens of the Northern Marianas should be represented in their national government, the debate was to a certain extent philosophical. That has changed, Mr. Chairman, for among our troops in Iraq are citizens, U.S. citizens from the Northern Marianas. They are risking their lives to give the people of Iraq the right to representation.

Ironically, Mr. Chairman, those Marianas citizens, those soldiers, do not have the same right of representation in their own home,

right here in America. Those Marianas soldiers fight for a representation or democracy that they themselves are denied.

Saturday, at Walter Reed Hospital, I visited one of them. Deputy Assistant Secretary Cohen has mentioned this. Specialist Monique Sablan is recovering from a severe leg injury inflicted during a bomb attack on February 1 as her unit moved through the streets of Baghdad. Specialist Sablan did not hesitate when her country called. She did not ask whether she has the fundamental rights in her own country that she is fighting for in Iraq. She did not ask whether she has equal and fair representation in her own government. She did not ask, Mr. Chairman, but I am here to ask for her. I hope that you and other members will ask yourselves that question for her, too.

Mr. Chairman, I hope that you and your committee will recognize that your action in 1996, this committee's action, was the right thing to do then and is the right thing to do now. Creation of a Northern Marianas delegate continues to be consistent with the highest principles of our nation. The people of the Northern Marianas do have a fundamental right to have a voice in their own government. I urge you to introduce Delegate legislation and to see it successfully through the legislative process and on to the President's desk for signature, Mr. Chairman.

Thank you again for holding this hearing, a very important one, Mr. Chairman, for the people of the Northern Mariana Islands. Thank you.

The CHAIRMAN. Thank you, Governor, for your testimony.
[The prepared statement of Mr. Babauta follows:]

**Statement of The Honorable Juan N. Babauta, Governor,
Commonwealth of the Northern Mariana Islands**

Mr. Chairman, thank you for convening today's hearing on the potential for representation in Congress for the U.S. citizens of the Northern Mariana Islands.

Thank you, also, for the concern you have shown for the Northern Marianas, as new Chairman of the Resources Committee—particularly by leading a CODEL there last month, together with Secretary Norton.

I'd like to thank Ms. Bordallo, Mr. Cardoza, Mr. Faleomavaega, Mr. Flake, Mr. Lucas, and Mr. Rehberg, who were members of the CODEL, and invite other Members, who have not been to the Marianas, to visit. We are ably represented before the Federal Government by an "elected lobbyist," Resident Representative Pete A. Tenorio. But Mr. Tenorio is not a Member of Congress. He cannot interact with you, as a colleague, to represent the people of the Marianas. So, we must rely in part on the occasional congressional visit to convey the concerns of our islands.

Mr. Chairman, as you know, this Committee has previously recognized the need to extend to the people of the Northern Marianas "that which is fundamental to Americans in our democracy: the right to have a voice in their own government."

That report language accompanied H.R. 4067 when it was placed on the Union Calendar in late 1996 by the favorable action of this Committee.

Some of you were not Committee members in 1996. For your benefit, let me explain that, in addition to identifying the fundamental right of citizens to be represented in Congress, Resources Committee Report 104-856 also detailed the 200-year history of representation for citizens who live in areas of our Nation that are not States. This representation was recognized to be necessary from the inception of our Nation.

Many of the Members of this Committee hail from geographic areas once represented by Territorial Delegates. And some of you are Delegates. Because the tradition has continued and the principle has been honored right up to the present day. In fact, U.S. citizens in every non-State area of our Nation—American Samoa, Guam, Puerto Rico, the Virgin Islands, and the District of Columbia—are represented here in Congress. Only the U.S. citizens of the Northern Marianas are not.

Given that this Committee has already set out the rationale and historical precedent for establishing a Delegate in the House of Representatives to represent the people of the Northern Marianas, I will not belabor the point.

I do, however, want to confirm that the people of the Northern Marianas still want representation. Representative Tenorio, our Senate President Joaquin Adriano, and myself can all testify to you that there is full support among the people of the Marianas to be represented here in Congress, as are all other citizens and residents of the United States. With your permission, Mr. Chairman, I would like to submit for the record further confirmation of that desire, Joint Resolution 14-3, adopted by the Northern Marianas House of Representatives on February 10th.

I should also note that the National Governors Association has adopted as its policy support for Northern Marianas representation in Congress. The policy reads in part:

In keeping with the American traditions of participatory democracy and basic fairness, the National Governors Association urges Congress to enact legislation to provide the people of the Northern Mariana Islands with the representation that U.S. territories have historically been granted: a Delegate in the U.S. House of Representatives.

This policy was first adopted two years ago when I joined the Governors Association and it was renewed this week by the 50 Governors—Republicans and Democrats—who were in attendance at the Governors' Winter Meeting.

Mr. Chairman, I want, also, to address two significant changes in circumstances since 1996—changes, I believe, should lead this Committee to recommend once again that the Marianas be given a Delegate.

The first change has to do with Northern Marianas labor and immigration policies, which in 1996 were raised as an impediment to representation. If, as this Committee wrote, the right to representation is fundamental, then it should not be conditional. It should be available to all Americans.

Nevertheless, I do want to report significant change in our policies and the way they are implemented and enforced:

We put a stop to open-ended immigration by enacting a cap on the number of foreign workers in the Northern Marianas. In 1997 there were 34,111 workers; in 2003 the number had declined to 29,381.

We automated our immigration procedures and instituted entry and departure scanning systems that permit us to tell at a glance who is in the Northern Marianas—and whether they should be.

Now that immigration is automated we are doing the same with labor permits. All relevant information—labor contracts, background checks, health data—will be entered and stored digitally. And all actions taken will be recorded electronically. This system provides faster, more accurate, service to the public, and also reduces the potential for corruption.

Finally, Mr. Chairman, we have rewritten our immigration and labor regulations so that all of the processes are standardized.

I would like to submit for the record a more complete report of the substantial reforms that we have undertaken and what the outcome of these reforms has been in terms of prosecutions and improved conditions for workers.

I was disappointed in 1996 that the Delegate bill this Committee approved never reached the Floor, but I have always considered the attention that this Committee has focused on law enforcement in the Marianas to be rightly your responsibility—and a positive influence.

But sustained and substantial reform can only be accomplished if the people of the Marianas want that reform. And they do. They have demonstrated that desire by electing officials who, over the years since 1996, have taken the Marianas in a new direction of fair and equitable labor and immigration law enforcement. Our work is not done—the work of law enforcement is never really done; but the work is well begun. And the commitment is solid.

This is the first change in circumstances since 1996 I want the Committee to note.

The second change is of more recent origin:

Mr. Chairman, our country is at war. Today, in Iraq American men and women are putting their lives on the line in order to provide the people of Iraq the long-denied ability to vote in democratic elections and to be represented by elected officials in an Iraqi national government.

We believe that assuring the people of Iraq the right to be represented is worth dying for.

We do not condition this right to be represented on any individual behavior.

We assume that the right to be represented is intrinsic.

In 1996, when this Committee decided that the U.S. citizens of the Northern Marianas should be represented in their national government, the debate was to a certain extent philosophical.

That has changed. Next month, a unit of 100 reservists from the Northern Marianas reports for duty in Iraq. They will be risking their lives to give the people of Iraq the right to representation. Ironically, those 100 U.S. citizens do not have that right of representation themselves in their own home, in the United States of America.

Nor are these the first U.S. citizens from the Northern Marianas to face the irony of fighting for democracy in Iraq. Saturday, at Walter Reed Hospital I visited another, Specialist Monique Sablan. Specialist Sablan is recovering from severe trauma to her leg inflicted by a bomb attack on February 1st, as her unit moved through the streets of Baghdad.

Specialist Sablan did not hesitate when her country called. She did not ask whether she has equal and fair representation in her government. But we should ask that question.

Mr. Chairman, I hope you and your Committee will recognize that your action in 1996, recommending approval of a Northern Marianas Delegate bill, continues to be consistent with the highest principles of our Nation. The people of the Northern Marianas do have a fundamental right to have a voice in their own government.

I urge you to introduce Delegate legislation and see it successfully through the legislative process.

Thank you again for holding this hearing.

The CHAIRMAN. Mr. Tenorio?

STATEMENT OF PEDRO A. "PETE" TENORIO, RESIDENT REPRESENTATIVE, COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

Mr. TENORIO. Good morning, Chairman Pombo. Hafa adai to you and Ranking Member Rahall and members of the Committee. My name is Pedro A. Tenorio. I am the Resident Representative of the Commonwealth to the United States. Thank you again for holding this very important hearing. I am honored to testify before you today.

Before I begin, Mr. Chairman, I would like to extend the apologies of Speaker Benigno Fitial of our legislature, who is unable to make the long trip and attend this hearing due to health problems. We do have representatives from our legislature, as Congresswoman Bordallo had indicated already, four from the Senate plus the President and a Representative from the House.

The purpose of my testimony today, Mr. Chairman and members, is to respectfully request Congress to authorize a Delegate seat in Congress for the Northern Mariana Islands. Such legislation would extend democratic representation to American citizens in the Commonwealth and affirm Congress's commitment to the democratic principles of our republic.

Our people strongly believe that the Delegate issue is about justice, equity, and fairness and that we deserve representation in the Congress just like the other U.S. territories. There are well-justified historic, economic, and strategic reasons for representation which I hope to convey to you in my testimony today.

The timing of this hearing is particularly appropriate, as many of you took part in a recent CODEL to our islands. While the visit was brief, I believe that you have gained a sense of our traditions, values, and pride in being part of the United States.

For three decades, Mr. Chairman and members, our people have expressed their desire to be represented in Congress. In 1974, the

Marianas Political Status Commission requested a Delegate similar to those representing Guam and the Virgin Islands. U.S. negotiators representing Presidents Nixon and Ford supported the request. However, the U.S. House leadership discouraged us, citing our small population as compared with that of Guam and the Virgin Islands at the time they were granted Delegates. In 1978, American Samoa was granted a Delegate with a population of 27,000, and according to the recent U.S. Census Bureau, the population of CNMI now is currently 69,000.

In the early 1980s, President Reagan appointed a Commission on Federal Laws, of which I was a member, to review which laws should or should not be made applicable to the Commonwealth of the Northern Mariana Islands. In its final report, the commission recommended that Congress provide for a CNMI Delegate in the House of Representatives.

Mr. Chairman, I wish to point out that our membership in the U.S. political family and the activities of this Congress has inspired our desire for representation. Because the CNMI is part of the United States, Congress consistently includes us with the other U.S. territories in a wide variety of legislation. However, while the laws are enacted and rules and regulations are promulgated to govern these laws, we are excluded from the process.

Our people recognize that they, like your constituents, need an elected official in Congress. We elect the Resident Representative for the Northern Marianas to serve in Washington, but the position is like that of a lobbyist. We have been relegated to asking our friends in Congress to do for us what we cannot do for ourselves. As part of America and faced with similar issues as the rest of the country, it is imperative that we be involved in our national legislative process.

I have with me today resolutions adopted by the 14th Commonwealth Legislature, the National Governors Association, and the others that seek Congressional approval to provide a CNMI Delegate in the U.S. Congress.

The CNMI relationship with the U.S. has been mutually beneficial because of our islands' strategic location in the Western Pacific. Over the last 28 years, the CNMI people have benefited as American citizens of a vibrant self-governing political entity. The U.S. has also benefited from the support, loyalty, patriotism, and affection of the CNMI people.

During World War II, our strategic location brought the U.S. to our shores and in a desperate battle, thousands of American soldiers died fighting for freedom. The island of Tinian became the launching pad for the Enola Gay, the B-29 bomber that dropped the first atomic bomb on Hiroshima, ending the war in the Pacific and ushering in the atomic age.

Our islands have continued during peacetime to have a major significance to U.S. national defense and security, as critical military exercises are conducted on our islands. Two-thirds of the island of Tinian and the entire island of Farallon de Medinilla are leased to the United States for 100 years. Annual military exercises on Tinian prepare our armed services for tropical conditions and amphibious assaults. Farallon de Medinilla is the only live fire area in the Western Pacific that is presently used by the U.S. for

live bombing exercise, including tactical, surface-to-surface, and air-to-surface training exercises.

Mr. Chairman, for the native Camorroos, Carolinians, and other Americans, the Commonwealth of the Northern Mariana Islands as part of the United States represents the American dream for equality. However, after almost 18 years of being American citizens, we remain the last United States territory not represented in the legislative body of our nation.

Again, I thank you for the privilege to testify before your committee, Mr. Chairman, and I look forward to working with you in the coming months and I will be happy to answer any questions that the Committee may have. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you very much, Mr. Tenorio.

[The prepared statement of Mr. Tenorio follows:]

Statement of The Honorable Pedro A. (Pete) Tenorio, a Resident Representative to the United States for the Commonwealth of the Northern Mariana Islands (CNMI)

Introduction

Hafa Adai, Chairman Pombo, Ranking Member Rahall, members of the Committee, I am Pedro A. (Pete) Tenorio, Resident Representative to the United States (U.S.) for the Commonwealth of the Northern Mariana Islands (CNMI). Thank you for holding this very important hearing on the potential for a CNMI nonvoting Delegate to the U.S. Congress. I am honored to testify before you today.

The timing of this hearing is particularly appropriate, as many of you took part in a recent Congressional Delegation (CODEL) trip to our homeland. The CODEL presented you an opportunity to experience firsthand our people and native culture and visit with our elected officials. While the CODEL visit was brief, I believe you gained a sense of our traditions, values and pride in being part of the U.S. I hope you more fully understand and appreciate the hope of Americans in the CNMI to have a voice in Congress.

The purpose of my testimony today is to respectfully request that Congress authorize a nonvoting Delegate position in Congress for the CNMI. Such legislation would extend democratic representation to American citizens in the CNMI and affirm Congress' commitment to the democratic principles of our Republic.

I believe the CNMI is just as deserving of representation in the Congress as all the other U.S. territories. By showcasing our significance in American history, I hope to demonstrate that this issue is about justice, equity, and fairness for the people of the CNMI to have status in Congress equal to that of other U.S. territories.

Geographical Overview of the CNMI

The CNMI consists of 14 of the 15 islands that make up the Marianas Archipelago (the 15th is Guam, a separate U.S. territory and the southernmost in the chain), stretching more than 400 miles north to south. Saipan, the main island, is 1,650 miles east of the Philippines; 1,500 miles south of Tokyo; and 3,720 miles west of Honolulu. The Marianas Archipelago is the dividing line between the Pacific Ocean and the Philippine Sea. Just to the east of the chain is the Marianas Trench, with the world's greatest known ocean depth at 38,635 feet. As part of the U.S., the Northern Marianas Exclusive Economic Zone (EEZ) spans approximately 250,000 square miles of the Western Pacific Ocean, as large as California and Oregon combined.

CNMI: A Special Piece of American History

Mention of the CNMI resonates differently with different people. For some, it conjures up a vision of beautiful beaches and warm temperatures. For others, it invokes memories of significant moments in American history, as the place where thousands of American soldiers died fighting a desperate battle during World War II and as the launching pad for the Enola Gay, the B-29 bomber that dropped the first atomic bomb on Hiroshima, ending the War in the Pacific and ushering in the atomic age.

For the native Chamorroos, Carolinians and other Americans, the CNMI represents the American dream for equality, yet the CNMI remains the last U.S. territory without formal representation in Congress. A successful experiment in democracy and a place where American free enterprise and capitalism flourish, the CNMI has developed economically and socially due to significant funding from the federal

government. Some people, however, choose to focus more on mistakes we have made along the way, which we are doing our best to correct.

Due to military victories during World War II in the Western Pacific, the U.S. gained control of the Northern Marianas, the Marshalls and the Eastern and Western Carolines. On July 18, 1947, under a joint resolution from the U.S. Congress, President Harry Truman approved a trusteeship agreement between the U.S. and the Security Council of the United Nations (U.N.). During the 30 years that followed, the U.S. provided the basis for the entities within the Trust Territory of the Pacific Islands (TTPI) to make a steady movement toward self-government or independence.

The Covenant

After a failed 1969 plebiscite to reintegrate our islands with Guam, we began negotiating our own arrangement with the U.S. for either direct annexation or incorporation into the U.S. system. After several years of extensive negotiations, Ambassador F. Haydn Williams representing the interests of the U.S., and the members of the Marianas Political Status Commission (MPSC) representing the people of the Northern Mariana Islands, reached agreement on a political status as detailed in the Covenant.

Following approval by the Commission and the NMI District, MPSC embarked on a comprehensive effort to educate residents of the Northern Marianas about the agreement. Once the agreement was overwhelmingly approved in 1975 by 78.8%, the process to gain Congressional approval began. I traveled to Washington many times over a two-year period to convince Members to support the Covenant (H.J.R. 549), which they did in 1976; President Gerald Ford signed it into law (Public Law 94-241) on March 24, 1976.

In enacting the Covenant, Congress approved an unprecedented political union between the people of the Northern Mariana Islands and the United States. The Covenant placed the CNMI under U.S. Sovereignty while acknowledging its right to self-government. It established a number of historic and legal precedents:

1. The U.S. fulfilled its international obligation and discharged its responsibility as the Administering Authority of the former Trust Territory of the Pacific Islands under the terms of the Trusteeship Agreement between the Security Council of the U.N. and the U.S. guaranteeing the people of the Northern Mariana Islands the right to freely express their wishes for self-government;
2. The U.S. supported the desire of the people of the Northern Marianas to exercise their inalienable right to self-determination;
3. The people of the Northern Marianas announced to the world that they share the same goals and values found in the American system of government based upon the principles of government by the consent of the governed, individual freedom, and democracy; and
4. In the process, the U.S. gained enormous international prestige and credit as the only nation within the U.N. to have gained the aspiration of assimilation from a group of people under its guardianship.

The Covenant became fully effective with President Ronald Reagan's Proclamation No. 5564 on November 3, 1986, calling for termination of the U.N. Trusteeship Agreement. On that same date under the authority of the Covenant, the residents of the NMI became U.S. citizens and all those born in the NMI since that date are U.S. citizens by birth. The U.N., through Security Council Resolution No. 638, acknowledged the termination of the Trust Territory of the Pacific Islands for the Northern Mariana Islands on December 22, 1990.

The remaining island groups of the former Trust Territory, who are now known as the Marshall Islands, the Federated States of Micronesia (FSM), and Palau, are freely associated Republics with the United States. They have ambassadors to the U.S. and are members of the U.N. Their people are citizens of their own respective countries, not U.S. citizens.

The U.S. and CNMI: A Mutually Beneficial Relationship

The CNMI's relationship with the U.S. has been mutually beneficial. Over the last 28 years the people of the Northern Marianas have benefitted enormously as American citizens of a vibrant self-governing political entity. The U.S. has also benefitted from the support, loyalty, patriotism, and affection of the people of the Northern Marianas.

Our strategic location brought the U.S. to the Northern Marianas in World War II. Today, the islands continue to have vital significance to national defense and security. By virtue of the Covenant the U.S. secures a permanent and vital extension of its foreign affairs and defense needs in the Western Pacific and neighboring and strategic Asian countries. For example, two-thirds of our island, Tinian, and the

entire island of Farallon de Medinilla (FDM), which includes more than 18,000 acres of land, are leased to the U.S. for 100 years. Annual military exercises on Tinian prepare our armed forces for tropical conditions and amphibious assaults. FDM is the only live fire area in the Western Pacific that allows tactical surface- to-surface and air-to-surface training exercises. These are critical to the overall readiness of American forces that maintain stability and peace in the region. In addition, four ships, stocked with the equipment needed to support Marine assault forces landing in Pacific and Middle East hot spots, are pre-positioned in Northern Mariana waters.

Support for a Nonvoting Delegate

For nearly three decades, the people of the Northern Marianas have expressed their desire to be represented in Congress. As early as 1974, the MPSC requested a nonvoting Delegate to Congress, similar to the nonvoting Delegates representing Guam and the Virgin Islands. U.S. negotiators representing Presidents Nixon and Ford supported the request. U.S. House Leadership, however, discouraged the Northern Marianas from seeking a nonvoting Delegate in Congress, citing its small population as compared with the population in Guam and the Virgin Islands at the time those territories were granted nonvoting Delegates. In 1978, two years after Congress approved the Covenant, it granted a nonvoting Delegate to American Samoa with a resident population of only 27,000. According to the U.S. Census Bureau, the population of the CNMI is currently 69,000. Attached to this testimony is a chart containing population data for each territory when it was provided with a Delegate. This chart clearly shows that Congress has not used population benchmarks as a condition for granting representation.

In the early 1980's, President Reagan appointed a Commission on Federal Laws to recommend to Congress which laws should be made applicable to the Northern Marianas. In its final report, the Commission recommended that Congress provide for a Northern Marianas' nonvoting Delegate in the U.S. House of Representatives. The Commission reasoned that:

- Every other area within the American political system with a permanent population is represented in Congress;
- Northern Marianas' representation in Congress is in keeping with American traditions of participatory democracy and dispels any lingering taint of American colonialism over the islands; and
- A Northern Marianas nonvoting Delegate would effectively represent the needs and interests of the islands, relieving other Members of this responsibility.

In 1985, the people of the Northern Marianas amended the Commonwealth Constitution to reflect the continuing intent of the voters to prepare the way for representation in Congress. The amendment allows for the term of office of the Resident Representative to be modified with an Act of Congress conferring nonvoting Delegate status on the Resident Representative.

Mr. Chairman, I wish to point out that it is through our membership in the U.S. political family and the activities of this Congress that have fueled the desire to have nonvoting Delegate representation. Under the Covenant, the Congress has been granted power to make laws that the people of the Northern Mariana Islands must abide by. The Congress consistently includes the Northern Marianas with the other U.S. territories on such matters as public assistance and services, education, Social Security, Medicaid and Medicare, airports, transportation, veterans' benefits, national defense and homeland security. Every Committee in Congress is legislating for the territories. Similarly, all departments and agencies in the Administration oversee programs and funding that impact the Northern Marianas and other territories. However, while many laws are enacted and rules and regulations are promulgated on our behalf, we are excluded from these processes, which most definitely impact our well-being.

The people of the Northern Marianas recognize that they, like the constituents you represent, need an elected official in Washington. We elect a "Resident Representative" to serve in Washington, but the position is more like that of lobbyist than elected official. We have been relegated to the position of asking Congress to do for us what we cannot do for ourselves. As we are part of America and faced with issues similar to the rest of the country, it is imperative that we be included in the national legislative process.

With me today are resolutions adopted by the 14th Commonwealth Legislature, the National Governors' Association (NGA), the California-Pacific Annual Conference of the United Methodist Church, and the Association of Pacific Island Legislatures that seek Congress' approval to provide a nonvoting Delegate in the House of Representatives to represent the CNMI.

Last June, I met with several congressional leaders in hopes of garnering support for a bill that would grant the CNMI a nonvoting Delegate. The meetings were constructive and provided valuable insight as to how some in Congress would like to shape such legislation, including issues and/or conditions they would like addressed. I would simply urge Members to review the historical precedent of prior legislation granting any territory with a nonvoting Delegate that was void of such matters. In addition I am including, as an attachment, a comprehensive list of U.S. Statutes that have provided nonvoting Delegates to territories to demonstrate this point.

Economic Development

Because of the Northern Marianas' limited economic base and the desire to preserve indigenous control over the Islands' assets, control of minimum wage and immigration laws were negotiated and approved in the Covenant to be the responsibility of the CNMI government. The U.S. also extended to the CNMI the same duty-free and quota-free exemptions that are extended to the other U.S. territories under the Harmonized Tariff Schedule General Note 3(a)(iv). It was envisioned by the negotiators that in order for sustainable economic development to be possible in the CNMI, favorable local policies on immigration must be in place together with a locally enacted wage rate.

The CNMI has two primary industries that support its economy and aid in development:

- **Tourism.** The Northern Marianas are to Japan as the Bahamas are to the U.S. Each year close to half-a-million tourists visit the islands. It is estimated that visitor expenditures will approach \$600 million in 2004 and contribute 20% of the government's direct revenue; and
- **Garment Industry.** According to the Saipan Garment Manufacturers Association (SGMA), the garment industry expanded in the 1990's—from 21 factories with \$300 million in sales in 1992 and to 34 factories with sales of \$1.06 billion in 1999. Sales declined in 2000 and continue to be weak with sales in 2002 totaling \$831 million. In 2003, there were only 29 factories still in business with sales estimated at \$765 million. Taxes and fees from the garment industry account for about one-quarter of the government's direct revenues. It is expected that the garment industry will continue to decline with the impending expiration of WTO quotas on garments and textiles.

Since tourism and textile manufacturing are fragile industries wholly dependent upon external circumstances beyond our control, we must look to other avenues for economic development. Valuable resources in the waters surrounding the Northern Marianas remain untapped. Because of volcanic activity that spawned the Marianas archipelago, the seabed is believed to be rich in minerals. Cobalt rich manganese crusts can be commercially mined once technology permits economically feasible and environmentally safe extraction. Fishery resources are likewise untapped, and like mining will require the investments of large U.S. companies to become a reality. We must also explore the advantages of our proximity to Asia, and seek those U.S. industries that wish to expand their markets into the East yet maintain offices and operate on U.S. soil.

Our future well-being and the potential for economic development are critically dependent upon a secure and sound relationship with the U.S. A CNMI nonvoting Delegate in the U.S. House of Representatives would play a major role in facilitating these goals and aspirations.

Working for the People

As a CNMI native, I have worked diligently over the past 30 years on behalf of our people to establish an enduring friendship and a permanent relationship with the United States. As a Senator in the former Congress of Micronesia, and then as a member of the Marianas Political Status Commission (MPSC), and as a negotiator of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, I actively pushed for commonwealth status for the CNMI while protecting the CNMI culture and way of life.

I had the honor of serving two four-year terms as Lieutenant Governor of the CNMI. In this capacity, I oversaw the implementation of numerous capital improvement projects funded through the Covenant, the development of private-sector investments in hotels and tourism, and the first major initiative to develop industries that utilize the provisions of the Harmonized Tariff Schedule General Note 3(a)(iv). Although strengthening ties with the U.S. through mutual understanding and genuine cooperation was the highlight of my tenure as Lt. Governor.

After more than 12 years in the private sector, I reentered public service. I ran for Resident Representative to improve our relationship with the federal government and our substandard public water supply. Since being elected two years ago,

I have focused my efforts on growing and diversifying the CNMI's economy, expanding access to federally funded health benefits, and improving and exploring new educational and cultural exchange programs. While I have met with some success, a nonvoting Delegate seat would more effectively promote the interests of the people of the CNMI.

Conclusion

Thank you again for the privilege to testify before your Committee. I urge you to strongly support a CNMI nonvoting Delegate bill. I look forward to working with you in the coming months. I would be happy to answer any questions. Thank you.

The CHAIRMAN. At this time, I recognize Senator Adriano.

**STATEMENT OF JOAQUIN G. ADRIANO, SENATE PRESIDENT,
CNMI SENATE**

Mr. ADRIANO. Thank you very much, Mr. Chairman. A warm hafa adai and good morning to you, Chairman Pombo and honorable members of this distinguished committee and panelists. For the record, Mr. Chairman, my name is Joaquin G. Adriano. I am the Senate President for the Northern Marianas Commonwealth Legislature. My testimony this morning summarizes my written testimony which has been filed with this committee, as requested. On behalf of my colleagues in the CNMI Senate, I would like to thank you, Mr. Chairman, for calling this hearing and inviting me to testify before you today.

For more than two decades, the people of the CNMI sought representation in the House of Representatives as part of the American political family. We have asked to have a voice in the U.S. Congress. As United States citizens on the border of our great nation, we ask for the opportunity to hear and be heard in the whole Congress. However, we remain without a nonvoting Delegate.

Historically, the U.S. Government has provided for representation by the delegates for this testimony. Our cousins in Guam have a nonvoting Delegate in the Congress for more than 30 years. As an area of the United States, the Northern Mariana Islands should be afforded the same opportunity, Mr. Chairman.

Our political ties with the United States date back to after World War II, when our islands were administered along with other islands, the District of Micronesia under the Trust Territory of the Pacific Islands. Except for the Northern Marianas, the other island districts under the trust territory eventually chose independence with free association with the United States. We in the Marianas, however, were determined to become a part of the United States.

We did so in 1975, ratifying a covenant to establish the Commonwealth of the Northern Marianas in political union with the United States. We were granted full U.S. citizenship in 1986.

With this, Mr. Chairman, I appreciate our opportunity to appear before your committee to represent for a nonvoting Delegate. Nevertheless, our self only grows stronger to continue our request, for the time has come to give the CNMI a voice in Congress. Our CNMI Delegate Chair before you today speaks to that resolve on behalf of the people in the Commonwealth.

Again, Mr. Chairman, I thank you for the opportunity to speak before your committee and I welcome any questions you have and your committee this morning. Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you very much.
[The prepared statement of Mr. Adriano follows:]

**Statement of The Honorable Joaquin G. Adriano, Senate President,
The Senate, Fourteenth Northern Marianas Commonwealth Legislature**

PART I. History of Delegates in Congress.

The term "territory" is a generic term for non-state areas of the United States. Delegates to Congress from the various territories of the United States have been a common phenomenon even before the adoption of the Constitution of the United States.

Over 30 U.S. territories have been represented by non-voting delegates to the Congress before they became States of the Union. During the country's westward expansion in the 19th century, territorial status was seen as the eventual step toward statehood. The populations of the territories at the time representation in Congress was granted varied from as many as 5,000 to 260,000 individuals, mostly settlers from the several States.

Like the majority of the States that preceded them, Alaska and Hawaii were U.S. territories for decades before finally becoming the 49th and 50th States of the Union, respectively. In the latter part of the 19th century, the U.S. acquired the island territories of American Samoa, Guam, Puerto Rico, and the U.S. Virgin Islands. Eventually, even these island territories were granted a voice in the U.S. Congress.

Presently, Guam, American Samoa, the U.S. Virgin Islands, and the District of Columbia are each represented in the U.S. House of Representatives by a non-voting delegate as authorized by federal statute. The delegates are elected by the voters in their territories to serve a two-year term, as are other House members.

Puerto Rico is represented in the U.S. House of Representatives by a resident commissioner as authorized by House Rules. The resident commissioner is elected by voters in Puerto Rico to a four-year term. The Commonwealth of Puerto Rico, Guam, Virgin Islands and American Samoa have enjoyed the privilege of representation in the Congress for the last 20 to 30 some years.

With the exception of voting on the Floor and other minor exceptions as provided in the House Rules, the delegates and the resident commissioner maintain the same rights and privileges as the other House members. History will show that, but for the presence and effective representation by the territorial delegates, Congress might not have addressed as expediently or thoroughly territorial issues of grave significance and impact.

The United States' longstanding practice of allowing, if only limited, representation in Congress for the various territories recognizes the fundamental principles of representative government and its applicability to State and non-State areas. This practice, though not directly sanctioned under the U.S. Constitution, could hardly be construed as anything less than affording all U.S. citizens residing on American soil the opportunity to hear, and be heard, in a national law-making context.

Despite its long relationship with the United States since World War II, during the period under the administration of the U.S. Trust Territory of the Pacific Islands (Trust Territory), and as the newest member of the American political family since 1975, the Commonwealth of the Northern Mariana Islands (CNMI) is the only U.S. insular area with a permanent population without its own representative in Congress. The CNMI's modest success as a self-governing U.S. commonwealth in the areas of economic self-sufficiency and progressive political and social stability without the benefit of a non-voting delegate in Congress strongly favors the potential for greater success in those and other areas had the CNMI been granted a non-voting delegate.

PART II. Relevance of Having a Delegate for the CNMI.

The CNMI's political relationship with the United States is embodied in the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Covenant). See U.S. Public Law 94-241, 90 Stat. 263. While the birth of each territory's historical relationship with the United States may be considered unique, the CNMI enjoys the distinction of being the only U.S. insular area whose citizens overwhelmingly voted in a solemn covenant to be a part of the United States and become U.S. citizens, transferring part of their sovereignty over to the U.S. in the areas of defense and foreign affairs, while retaining the right to self-government.

The Covenant was the end-result of years of discussion, scrutiny and careful negotiations amongst and between local leaders and representatives from various United States and Trust Territory agencies, including a few members of Congress. It was

well understood then as it is now that the means by which the Northern Mariana Islands sought U.S. Commonwealth status was uncharted territory in the U.S. territorial experience.

Nevertheless, the Covenant was ratified, establishing each party's rights and obligations in treaty-like fashion. Among the Covenant sections that became effective immediately upon ratification is Section 901, which provides for a CNMI Resident Representative to the United States.

Section 901, in full, provides:

The Constitution or laws of the Northern Mariana Islands may provide for the appointment or election of a Resident Representative to the United States, whose term of office will be two years, unless otherwise determined by local law, and **who will be entitled to receive official recognition as such Representative by all of the departments and agencies of the Government of the United States upon presentation through the Department of State of a certificate of selection from the Governor.** The Representative must be a citizen and resident of the Northern Mariana Islands, at least twenty-five years of age, and, after termination of the Trusteeship Agreement, a citizen of the United States.

The emphasized language is almost identical to the text in Section 891 of Title 4 of the United States Code that provides for Puerto Rico's Resident Commissioner to the United States. Yet, interestingly, while Puerto Rico's Resident Commissioner is the functional equivalent of Guam, Virgin Islands and American Samoa's non-voting delegates, Section 891 makes no mention of a role for the Resident Commissioner in Congress.

Even prior to the Covenant's complete ratification, members of the Marianas Political Status Commission negotiating team sought a commitment from the United States to authorize a non-voting delegate to Congress to represent the CNMI. These early efforts were unsuccessful, the principal reason given was the small population in the Marianas compared with the population in Guam and the Virgin Islands at the time those territories were given non-voting delegates.

Looking at the latest U.S. census data for the CNMI, the population criterion no longer is justified to deny the CNMI a non-voting delegate. Nor should it have been necessarily, since the CNMI's population of approximately 8,000 in 1976 was more than that of other U.S. mainland territories, as mentioned earlier, at the time they were given a non-voting delegate.

However, the conditions in the Marianas in 1976, notwithstanding, subsequent local, regional, national and global issues of varying degrees of relevance and impact on the CNMI argue strongly for CNMI representation in the Congress. This can be assured only by giving the CNMI a non-voting delegate who can directly advocate the CNMI's interests in the national government.

Most people in the CNMI would agree that no other local interest deserves greater attention and nurturing than the CNMI's economic potential and viability. Because of its close proximity to Asia, the CNMI's economy, especially the local tourism industry, rides on the economic swells of the much larger, economically advanced Asian countries.

As a U.S. tropical vacation destination in the western Pacific, the CNMI is blessed with close access to the tourist markets of neighboring Asian countries, primarily Japan, Korea and China. The development of the CNMI's tourism industry is also attributable to collaborative and extensive marketing efforts by the CNMI Government, commercial airline and hotel companies, and other tourism advocacy groups.

Still, much can and should be done to improve the CNMI's tourism. Through proper planning and environmental controls, the CNMI can become the number one destination of choice for travelers in the western Pacific region for business or pleasure.

For example, in 1989, the U.S. residents in the municipality of Tinian and Aguiguan approved a local initiative to authorize gaming in the municipality. Following the construction of a world class gaming hotel and casino and the on-going federally funded expansion and upgrading Tinian's airport, Tinian is poised to attract large numbers of visitors in the near future.

Aside from tourism, private garment manufacturing, introduced to the CNMI in the 1980s, generates exports to the U.S. in hundreds of millions of dollars and accounts for approximately 17 percent of CNMI Government revenues. The industry flourished in part because of the favorable tariff treatment of garment goods produced in the CNMI entering U.S. markets under Head Note 3A and the CNMI's control over local immigration and minimum wage, which provided for the relatively easy recruitment of alien workers to supplement the inadequate local labor pool.

However, with the full application of World Trade Organization rules to international trade in textiles and clothing on January 1, 2005, the quota-free advantage that the CNMI has enjoyed hitherto may be lost. Thereafter, the ability of the local

garment industry to compete globally with other garment producing countries is [sic].

Another equally important issue has been the desire of the CNMI Government for an increased U.S. military presence in the CNMI. To enable the United States to fulfill its defense obligations under the Covenant, the United States leased approximately two-thirds of the island of Tinian, lands surrounding Tanapag Harbor on the island of Saipan and the island of Farallon de Medinilla.

Portions of the leased lands on Tinian and Saipan have been leased back to the CNMI for specific uses consistent with military requirements. The non-leaseback portions are used sporadically for various tactical assault training, while Farallon de Medinilla provides the only target for the U.S. Navy's live bombing exercises.

In addition, U.S. Naval vessels on occasion port at Saipan for liberty call. The personal expenditures of the crew in the various retail establishments add new revenues to the CNMI economy.

The fateful 9/11 attack, the War on Terror, the SARS scare, and other potential terrorist threats raise profound national security issues that concern every aspect of keeping America and her citizens safe within her borders and abroad. Although far removed from mainland America, the CNMI and the island of Guam are no less vulnerable to attack, and the lives and property of their residents must be protected. The appropriate response to these concerns inherently involves bilateral consultation between the State or Territory and the National Government.

While security will continue to be a major concern, providing quality health care for the growing population in the CNMI is putting a strain on the scarce resources of public and private health care providers. This includes the high cost for off-island medical referral of patients to Hawaii that warrants consideration of alternative strategies, for example, the CNMI's specialization in the care and treatment of certain diseases, or provision of medical services, which could be made accessible to patients from less medically equipped island communities in the region.

Similarly, the Islands' infrastructure, including the American Memorial Park, roads, public buildings, public utilities, telecommunications, and air and sea transportation, remain a priority. Capital improvement projects grants under section 702 of the Covenant have provided the bulk of funding dedicated to such projects. This funding is deemed vital to continue the infrastructure improvements so as to ensure the health, safety and well-being of the community.

PART III. Conclusion.

The above and other difficult issues that are destined to arise, some unique to the CNMI or in common with the other States and Territories, cannot be resolved by a single government agency or level of government. Effective results happen because of thorough consultation and cooperation among government agencies and between governments.

For the above reasons, a CNMI non-voting delegate to Congress should not be an option, but a requirement. Not only will the other members of Congress have quick access to a colleague from the CNMI on matters that relate to a CNMI interest, but also the people of the CNMI, just as the people of any other State or U.S. Territory, will have an advocate in Congress to ensure that their concerns and aspirations are heard.

The CHAIRMAN. I thank the entire panel for your testimony.

Just to start with, Governor, one of the issues that came up on our CODEL, I was wondering if you could straighten out for us. Where does the America's day actually begin?

[Laughter.]

The CHAIRMAN. You don't really have to answer that one.

[Laughter.]

Ms. BORDALLO. I object to that, Mr. Chairman.

[Laughter.]

The CHAIRMAN. I figured you would. But Governor, how would you see your role or the Office of the Governor's role changing if we did have a nonvoting Delegate? How would it impact the role that you would play or that your office would play?

Mr. BABAUTA. I see it being enhanced, Mr. Chairman, and strengthened as it will provide the CNMI the ability to

communicate with a member of Congress who deals with the daily issues and business of the Congress right here in the halls of Congress. It just seems that that would be a tremendous added asset to the CNMI.

The CHAIRMAN. The way that you look at it now in terms of policy and current Federal laws, how would it strengthen that relationship or what specific policies do you think would have the greatest impact if we were to move forward with this?

Mr. BABAUTA. Mr. Chairman, I am not certain what your question is.

The CHAIRMAN. In terms of specific policies, because when we were there, we talked about a lot of different issues and what role the U.S. Government plays and how that impacts decisions that are made in CNMI, and I am just wondering how this would strengthen or diminish that particular relationship in terms of the way that you are dealing with current laws right now.

Mr. BABAUTA. Mr. Chairman, that is an excellent question. I think that the reason why we are here is really the essence of your question. The ability of a Delegate to be here to speak on behalf of CNMI on legislation that would affect the people and the government of the CNMI is going to give us that ability to understand and to influence the legislation that comes to the Congress. That, in itself, is invaluable and a process that we long to belong to.

The CHAIRMAN. Mr. Tenorio, I know that you have actively worked on this issue along with a number of others in the time that I have been here, and I know that it is something that is extremely important to you and the people that you represent. But I would like to ask you the same question in terms of how do you see this impacting the citizens in CNMI.

Mr. TENORIO. Thank you, Mr. Chairman. That is an excellent question and I would like to offer you some response. First of all, on a daily basis, our government and the people there deal with the Federal Government through many of its agencies. Agencies of the Federal Government will do things for us back at home and we, in return, will have to respond back.

Communication is one area where we can really provide a better exchange between our government and the Federal Government here. The roles of a Delegate in Congress would certainly enhance the—just the fact that there is a member of Congress calling up the Federal agencies would be a very, very positive effect on the way things are administered back home, 5,000 miles away.

I feel that a lot of times, we lack the response of the Federal Government because we don't have somebody from Congress calling them up in the same kind of position as a member of Congress does. I find myself at times calling agencies and I will get a very polite response that they will call me back, but I feel that the services that should be provided to our people back home would be enhanced if we have the leverage and the Congressional posture to make people jump in the Administration to help us. At times, I just have to rely on their kindness to see that they help us or they respond to concerns that we raise.

The CHAIRMAN. Thank you. I will just tell you, being a member of Congress, you don't always get your phone calls answered, either.

[Laughter.]

The CHAIRMAN. But hopefully, you will have a chance to find that one out on your own.

[Laughter.]

The CHAIRMAN. Mr. Miller?

Mr. MILLER. I will wait.

The CHAIRMAN. Ms. Bordallo?

Ms. BORDALLO. Thank you, Mr. Chairman and Mr. Miller.

I have a question for the Governor. The question is, how are you guaranteeing the reforms that you have enacted in the areas of immigration and labor matters?

Mr. BABAUTA. That is an excellent question, Congresswoman, and like everything else in life, it is hard to guarantee anything nowadays. But what we are taking steps for in the NMI is instituting institutional changes that would put in place a system that is going to be difficult to change and a system that is going to be difficult to be corrupted. Let me just give you an example.

We have had greater partnership between the CNMI and the Federal Government. We have reorganized the immigration office and it is now directly under the Office of the Attorney General, supervised by the Attorney General herself. We have automated the system in the immigration office so that we know exactly who we let into the CNMI and who we let out. We have developed standards through regulations and operating procedures that have to be adhered to and it will not do favors to people for special considerations and things of that nature.

And so with this partnership with all the Federal agencies in the CNMI at all levels, it is going to make it very difficult for the changes in the rules and the reautomation that we have put in place, and that is probably the only guarantee that I can give you that it will be as permanent as it is.

Ms. BORDALLO. Thank you very much, Governor. I think that when the CODEL visited Saipan and Chairman Pombo saw it as well as the rest of us, there have been major changes in this area in the CNMI and I congratulate you on this. Thank you.

Mr. BABAUTA. Thank you.

The CHAIRMAN. Mr. Miller?

Mr. MILLER. Thank you, Mr. Chairman. I welcome the panel and my apologies for coming late to the hearing. I was involved in another hearing in the Labor Committee.

I want to welcome this panel and just say that I have had a fairly long relationship during my time in the Congress with the CNMI and with the Governor. I must just tell the members of this committee, because I know that you traveled out to Saipan, that I have as much respect for this Governor as I have had for any public official that I have met. I think that had you visited the Saipan that I visited a number of years ago, this hearing would never be held.

But this Administration has sought to make a series of changes, as he was just saying in response to your questions, to make systematic changes as opposed to a series of sort of ad hoc promises that very often were made to us and then sometimes we were getting ready to take action in this committee and we would find out in the middle of the hearing that it was reversed already.

I think that when we are talking about providing the status of a Delegate to the Congress of the United States, we have to ask, what are the underlying conditions? CNMI has a very unique situation with a strongly dominant industry that is staffed by guest workers. More than half of the island is foreign workers, and that raised in the past and currently continues to raise a series of considerations about the protections of the rights of those workers, about our national immigration policy, since there is an exemption from our immigration laws in the CNMI, the pay and the conditions under which those workers are hired.

My discussions with the Governor and rather hard-nosed Attorney General have led me to believe that the—and I am sorry I wasn't able to go on the CODEL, but have led me to believe that, in fact, many of these changes have been made. But I also want to say on the public record that I continue to have serious concerns about whether or not we can have this kind of exemption in our national immigration laws that exists here.

But I say that, and then in the next sentence I must say that my conversations with this Administration and the Governor have led me to believe that it is worth continuing to discuss and to talk about because of the kinds of changes and what some of the members of Congress have said they witnessed on the CODEL.

So I want to make it very clear that my concerns continue in the areas of the minimum wage, of immigration, of what was maybe more of a past practice, but certainly of labor contractors that very often misled a number of these foreign workers into really tragic situations for them and their families. Those concerns continue.

I would like to repeat the question that was just asked by Ms. Bordallo, and that is, Mr. Adriano, to you as the representative of the Senate. I am looking for assurances that these changes are, in fact, systematic, that it really is about a new protocol for the way of conducting business and the economy in CNMI. I just wonder if you might enlighten us as to the attitude of the Senate and their views of these. I know these have been the subject of pitched battles from time to time, as they are here in the Congress of the United States, so it is not a question of whether everybody agrees or not. If you might tell us what you think the attitude is about the changes and whether people see these as permanent changes and changes that would continue on and remain in place.

Mr. ADRIANO. Thank you, Congressman Miller. The leadership of the Senate and the House and Administration, including the Washington Representative, has gone so far as sitting down. The changes to allow different, or in terms of the alien and so forth with reform should come before the Senate and the House and never under my leadership or the House will permit to change anything without having to have the Administration and the House and the Senate come together in one decision.

The CHAIRMAN. Excuse me. If I could recognize Mr. Flake for a minute—

Mr. MILLER. Sure.

The CHAIRMAN. Mr. Flake?

Mr. FLAKE. Thank you, Mr. Chairman. I just want to apologize for having two other markups going on at the same time and I have to run to one very, very quickly. I just want to say how

pleased I am. I read all the testimony and I will get to one question here quickly, but I was able to go on the CODEL. As I mentioned, I was extremely impressed with the steps that CNMI has taken, particularly under Governor Babauta, in immigration and labor issues. I know that they have made great effort to actually do what they know they need to do. I just wish that we could have stayed longer. I think the greeting half a day kind of explains how long we had on each island, as well.

[Laughter.]

Mr. FLAKE. Next time, we hope to get a whole day somewhere.

[Laughter.]

Mr. FLAKE. But Governor Babauta, it is mentioned with regard to minimum wage, I think that you said that the industry sector minimum wage that American Samoa has might be something that might work in the future for CNMI. Can you elaborate on that?

Mr. BABAUTA. Thank you, Congressman. In the past, we have been exploring how to deal with the issue of minimum wage. As you know, the business community in CNMI adamantly opposed the increase of the minimum wage. The garment industry has opposed it. But I think that we have been coming together as a community and that I personally, myself, support a gradual increase in the minimum wage.

To demonstrate that I support that fully, I have taken it upon myself to require that all construction activities funded by Federal funds pay Federal minimum wage. I instituted that two or 3 months ago, and that is currently in effect. And so all workers now who are working under federally funded programs receive the Federal minimum wage.

Mr. FLAKE. Thank you. I was impressed when we toured the facility, the garment facility. I think it was mentioned by some of the workers there that jobs that they had left in China or that they might have in China, for those who were coming from China, they were earning about eight times as much in the CNMI as they were there, and so I understand the pressures that you have to deal with.

Again, I just want to thank you for coming here and thank you all for the steps that you have taken, and also in particular for the commitment that CNMI and the U.S. citizens there are making to our nation's defense, and some of those were outlined in your testimony. I just appreciate that and you deserve to have somebody here who deserves to be a colleague, somebody that can be here, or whoever is elected to come here as a colleague and to be able to represent the people from CNMI. Thank you much.

Mr. BABAUTA. Thank you, sir.

The CHAIRMAN. Further questions?

Mr. MILLER. If I could just finish—

The CHAIRMAN. Mr. Miller?

Mr. MILLER. Thank you. On the points I just made, I think I just want to make it clear that I would certainly like to continue to have those discussions, Governor, with you and with your administration and with the Legislature.

Just a follow-up on Mr. Flake's point and your response to him. Those jobs, those federally funded jobs or where there are Federal

funds included in those jobs, those would also be available to non-resident workers?

Mr. BABAUTA. Yes, sir.

Mr. MILLER. Thank you.

Mr. BABAUTA. And in fact, what it has done, if I may add, Congressman, is that it has invited locals to the construction site seeking jobs from the construction activities that are going on in CNMI.

Mr. MILLER. Thank you.

Mr. BABAUTA. Which is a very positive turnaround.

The CHAIRMAN. Thank you very much. Ms. Bordallo?

Ms. BORDALLO. This is a rumor, but I wanted to substantiate it. Regarding immigration controls, is there any basis for the concern that Chinese workers in the CNMI are migrating to Guam by boat rather than returning to China, and do you have any data that shows that this is true or false? Governor?

Mr. BABAUTA. The rumors that Chinese workers are migrating to Guam is not true. There have been instances in which, in the past, and it is probably on one or two occasions only, were attempts made by Chinese nationals escaping from Saipan to go there. But those were interdicted and caught and have been dealt with swiftly. So if you call one or two instances rumors of Chinese nationals escaping to Guam, those were the two incidents, or one that I know of, that have taken place.

Ms. BORDALLO. Thank you, Governor, for the clarification.

The CHAIRMAN. Thank you very much. I want to thank this panel for your testimony. If there are any further questions, Pete, that any of the members of the Committee have, or Governor, they will be presented to you in writing, if you can answer those in writing so that they can be included in the committee process. But we will get any further questions that anybody has over to you.

Mr. BABAUTA. Thank you.

The CHAIRMAN. Thank you very much.

Mr. BABAUTA. Thanks again.

Mr. TENORIO. Thank you very much, Mr. Chairman.

The CHAIRMAN. I would like at this time to call up our third panel. We are fortunate to have with us today the former Director of what at the time was called the Office of Territories, which is now the Office of Insular Affairs. We are welcoming back to the Committee Mrs. Ruth Van Cleve, who served both the Johnson and the Carter Administrations.

If I could just have you stand and raise your right hand.

Do you solemnly swear or affirm under the penalty of perjury that the statements made and the responses given will be the whole truth and nothing but the truth, so help you, God?

Mrs. VAN CLEVE. I do.

The CHAIRMAN. Thank you very much. Let the record show she answered in the affirmative.

Welcome to the Committee. It is a pleasure to have you here today. If you are ready to begin your testimony, you may.

**STATEMENT OF RUTH VAN CLEVE, FORMER ASSISTANT
SOLICITOR FOR TERRITORIES AND DIRECTOR, OFFICE OF
TERRITORIES, U.S. DEPARTMENT OF THE INTERIOR**

Mrs. VAN CLEVE. I am indeed, Mr. Chairman, but I should first say hafa adai.

[Laughter.]

Mrs. VAN CLEVE. Mr. Chairman, I have filed a brief statement with the Committee. I can summarize it even more briefly if that would be your pleasure.

I was asked to consider and speak to the history of Delegates to the Congress from the territories and I am glad to do that. One can best do that by beginning in the 19th century, returning to the time when all of the territories were part of the contiguous United States. At that time, the Congress turned to them one by one as they developed sufficient population, sufficient economic activity and aspirations.

The Congress accorded to these areas the status of organized, incorporated territories. They were organized by means of the enactment of an organic act. They were incorporated because the Congress extended to the territory the provisions of the U.S. Constitution. That was an important step because it was viewed as a matter of law as a first step toward Statehood. The act of incorporation was understood to carry with it an implied promise of ultimate Statehood.

As these territories were the subject of organic acts, also typically they received at the time of organic legislation a Delegate, a nonvoting Delegate to the U.S. Congress. So that was the pattern that had been established with respect to the contiguous United States in the 19th century.

When United States commenced to acquire noncontiguous areas, the pattern shifted and the tidiness essentially departed. Our first noncontiguous acquisition was, of course, Alaska, 1867, by purchase. The Congress did very little about Alaska until 1906, when it accorded to Alaska a nonvoting Delegate. This was prior to organic legislation, which occurred in 1912, but it did take that step that was important of sending a nonvoting Delegate from Alaska to the Congress.

In 1912, the Congress enacted organic legislation for Alaska and specifically extended the provisions of the United States Constitution. The Constitution had been held by the judicial branch to have been extended to Alaska under the treaty of purchase, but that is a footnote that probably is not now relevant. The treaty of purchase also accorded citizenship to the people of Alaska, except, and this is a quote, for "the uncivilized native tribes." So that explains Alaska.

In 1900 or thereabouts, we acquired further noncontiguous areas. The Treaty of Peace with Spain following the Spanish-American War gave to the United States, among other areas, Puerto Rico and Guam. Puerto Rico was the subject of early legislation. The Congress passed a kind of organic act in 1900. It conferred so few privileges and rights upon the people of Puerto Rico that it could hardly be called an organic act, but it did do that. In 1917, the Congress passed a genuine organic act. At that time, it did not incorporate Puerto Rico into the United States. The Constitution has never

been expressly extended, and that is important in terms of Statehood considerations because it was important, of course, in the case of Alaska and Hawaii.

Puerto Rico has never been incorporated. It was organized in 1917. Its people became citizens in 1917 and it received the equivalent of a nonvoting Delegate, though he was called a Resident Commissioner. His job is described a little differently from the Delegates. He is said to be entitled to recognition by the departments and agencies of the United States as a Commissioner, which suggests executive powers as well as legislative powers, but he, the Resident Commissioner, has always functioned very much like the nonvoting Delegates from the unincorporated territories. That occurred also in 1917, and, of course, a Resident Commissioner continues today in roughly the same form.

As for Guam, we acquired it under the same Treaty of Paris, but Congress paid very little attention to Guam until 1950, at which time it enacted organic legislation. It also did not incorporate Guam into the Union, but it made Guam an organized, unincorporated territory. Its people in 1950 became citizens. However, Guam was not accorded a nonvoting Delegate until many years later, 1972, thus the untidiness of the pattern to which I referred earlier.

The Virgin Islands, acquired by purchase in 1917, had a somewhat different history. One of the joys of the territories is that each is unique. Each has a special history for one reason or another. But in the case of the Virgin Islands, they were purchased in 1917. Their people became citizens in 1927. In 1936, Congress passed the first organic act. In 1954, it revised the organic act appreciably and the revised organic act remains the basic governmental structure for the Virgin Islands today.

In the same Act as the Congress chose to give Guam a nonvoting Delegate, it did the same in 1972 for the Virgin Islands. That then left only American Samoa unrepresented, and American Samoa has never been the subject of an organic act. Its people, as I know this committee is well aware, are not citizens but nationals. They owe permanent allegiance to the United States, but they are deprived of certain rights that are given only to citizens by statute.

It was in 1978 that the Congress enacted nonvoting Delegate legislation for Samoa, and it is interesting that in the initial enactment, which I believe was October 31, 1978, the requirement was imposed that the nonvoting Delegate from Samoa be a U.S. citizen. Many Samoans have become citizens. I don't think anyone has a count. I used to hear either 10 percent or 25 percent of the Samoan population were citizens. I don't think anybody really knows, but it is in that range. It is easy for an American Samoan to become a citizen. He needs only to appear before a Federal judge and take a suitable oath because residence in Samoa counts as residence for naturalization purposes, so it is very, very easy indeed, no questions asked.

The first statute required that the Samoa Delegate be a citizen of the U.S. and someone then said, oops, because that would bar so many Samoans from running for office. Three days later, the correction was made and the statute then was made to provide, as it still does, that the Delegate from Samoa need only owe

allegiance to the United States, and that is the language that comprehends nationals, and citizens, of course, as well.

So what I have told you is how all of the first contiguous and then noncontiguous areas became—were the subject of Representatives in the Congress, nonvoting Delegates, except, of course, for the Northern Marianas, about which this hearing has been convened.

I was also asked in my invitation to appear to speak to the relevance of Delegates as it considers issues arising in the Northern Marianas. I can't speak of any current issues. I have long since been retired and I speak really as a retired private citizen at this point. I have not retired from that status.

I think in the current lingo, giving the Northern Marianas a non-voting Representative would be win-win. The Congress surely profits from having an authentic, popularly elected voice representing an offshore area. These folks can speak, as Ms. Bordallo has so often done, with much greater credibility than a lobbyist. The win-win continues, as others have so eloquently stated, the win-win continues because it does give some minimal representation to people in an offshore area on a subject which is—on every subject that is of importance to them on the national level. This is consistent with the democratic process.

We have been pretty good in the Interior Department and in the U.S. Government in bringing the democratic process to offshore areas. We have been slow, but we have done it. This would be one more step consistent with our long-term aspiration.

And that, Mr. Chairman, concludes my quick summary.

The CHAIRMAN. Thank you very much. I have been told that you are a walking encyclopedia on these issues and we greatly appreciate your expertise in being here.

[The prepared statement of Mrs. Van Cleve follows:]

**Statement of Ruth Van Cleve, Former Director,
Office of Insular Affairs, U.S. Department of the Interior**

Mr. Chairman and Members of the Committee

It is my pleasure to accept your invitation to appear before you today to provide information on the subject of the representation in the United States Congress of non-voting Delegates from offshore areas.

Perhaps I might begin by speaking of the history of Delegates, beginning in the 19th century, from political entities in the contiguous United States. At whatever time it seemed appropriate in terms of the population, the economic activity, and the aspirations of the inhabitants, the Congress by law conferred upon such mainland political entities the status of incorporated territories. It did so by enacting an organic act, and in that act by explicitly extending to the area the provisions of the United States Constitution. That action was understood, as a matter of law, to launch the incorporated territory on the road to Statehood. That is, the act of incorporation carried with it an implied promise of ultimate Statehood. And indeed, all of the incorporated territories (generally referred to as "Territories") of the contiguous United States were ultimately admitted to the Union. Typically, organic acts for these incorporated territories also provided for the election of a non-voting Delegate to represent the people of the Territory in the Congress.

This neat pattern of political development was disrupted around the turn of the century, and in fact a bit earlier, by our acquisition of noncontiguous territories. The first was Alaska, acquired by purchase in 1867. An organic act for Alaska was not enacted until 1912. Before that, Alaska was governed under various stop-gap, short-term measures. But even before enactment of its organic act, Alaska was accorded a non-voting Delegate in the Congress. This occurred in 1906. The people of Alaska were collectively naturalized by the Treaty of 1867, except, the Treaty provided, for "the uncivilized native tribes." They achieved citizenship in 1924.

Hawaii, on the other hand, followed the mainland precedent. Always the most advanced of the offshore areas, Hawaii was, shortly after its annexation in 1898, the subject of an organic act in 1900. By that act the people of Hawaii became U.S. citizens, the Constitution was extended to Hawaii, so it became an incorporated territory, and Hawaii was accorded a non-voting Delegate.

At about the same time, the United States acquired new areas under the Treaty of Paris in 1898, following the Spanish American War. Puerto Rico and Guam were ceded to the United States from Spain. Congress legislated for Puerto Rico in 1900, but the enactment granted such limited powers of self-government to the people of Puerto Rico that it could not quite qualify as an organic act. A genuine organic act was enacted for Puerto Rico in 1917, at which time its people were made citizens of the United States. And at that time, provision was made for the equivalent of a non-voting Delegate, but he was termed the "Resident Commissioner." The Resident Commissioner from Puerto Rico was and is entitled to receive official recognition as such commissioner by all of the departments and agencies of the Government of the United States, upon presentation, through the Department of State, of a certificate of election by the Governor of Puerto Rico" (48 U.S.C. sec. 891). This language suggests that the Resident Commissioner has executive as well as legislative authority, but it appears that he has always acted in the same manner as the Delegates from other offshore areas. The provisions of the United States Constitution were not extended to Puerto Rico by either the 1900 or the 1917 act, or by any later Federal statute -so Puerto Rico was unincorporated, and not given a promise of later Statehood.

The Virgin Islands, Guam, and American Samoa remain, and they have followed different routes—but all are now represented by non-voting Delegates. The Virgin Islands, acquired by purchase in 1917, was the subject of an organic act in 1936. That 1936 act was substantially revised in 1954, and the Revised Organic Act continues today. But it was a separate enactment in 1972 that provided for the Virgin Islands Delegate. Somewhat similarly, Guam was the subject of an organic act in 1950—the first notable Congressional recognition of Guam since its acquisition in 1898—but its Delegate dates from the same 1972 enactment. Guamanians became United States citizens in 1950; Virgin Islanders, for the most part, in 1927.

American Samoa differs from all of the rest. The United States acquired Samoa by voluntary acts of cession by Samoan chiefs, in 1900 and 1904. Samoa has no organic act. It is governed by a constitution of its own adoption, approved by the Secretary of the Interior under the general authority conferred upon him by the Congress. The people of American Samoa are nationals but not citizens of the United States—the only category of persons who have that status today. Samoa's Delegate was authorized by Act of Congress in 1978. Interestingly, when first enacted the Samoa Delegate law required that Samoa's Delegate be a citizen of the United States. A few days later, that law was amended to allow him to be a national that is, the Delegate must merely "owe allegiance to the United States".

As a result of the foregoing developments, the populated offshore areas of the United States all currently have non-voting representation in the Congress—except for the Northern Marianas. The language quoted above with respect to Puerto Rico's Resident Commissioner—his entitlement to recognition by Federal departments and agencies—is duplicated in the job description of the Northern Marianas Resident Representative in section 901 of the Northern Marianas Covenant. If the Resident Representative were permitted also to sit in the Congress, the historic pattern of development of Congressional representatives for offshore areas would be completed.

Your invitation to me to appear asks also that I speak to the relevance of having a Northern Marianas Delegate present, as the Committee and the Congress deal with issues of importance to the Commonwealth. As a retiree of some years standing, I cannot speak with authority about current Northern Mariana issues, but I can say that an official voice from the Northern Marianas would unquestionably have singular value in the legislative process. It is uniformly understood that the Delegates from the Virgin Islands, Guam, and American Samoa, and the Resident Commissioner from Puerto Rico, have contributed materially to the Committee and the Congress as they consider legislation affecting those areas. They contribute wisdom that could not otherwise be available.

But in addition, because of their Delegates, the people of those noncontiguous areas have been afforded some measure of representation in the Congress. Obviously it falls short of the effectiveness accorded representatives of the States of the Union, but a voice from these territories is consistent with the United States' long-term purpose of extending the democratic process to the offshore areas.

Thank you.

The CHAIRMAN. When we went through this, and it is interesting to hear what the history is dealing with the contiguous territories and then the offshore territories, generally, what kind of requirements or changes have been attached to the granting of a Delegate status, or for that matter, has it ever really happened before where we went in later to grant a Delegate as a separate act? Or was it always done when the generic act was done and a Delegate was appointed as part of that process?

Mrs. VAN CLEVE. I think there have been several instances—Guam is one of them, the Virgin Islands is another—where the Delegate legislation succeeded other legislation by quite a few years. The interesting phenomenon is Alaska, where Delegate legislation preceded just about everything else. But as I observed, the joy of the territories is the uniqueness of each one.

I don't think there have ever been enunciated tests for Delegates. There certainly have been tests for Statehood. My impression is that a kind of lukewarm version of the Statehood tests has tended to apply to the matter of Delegates. The aspirations of the people are certainly of some importance. The order of the instrumentality, an organized territory that can hold elections and send people forward in the standard democratic way is important.

So I think I would say that, in general, there has been some deference paid in Delegate legislation to the same tests as applied to Statehood. That is, are they ready? Do they aspire to Statehood? Do they have an orderly local government? In the case of Statehood, the further test has always been have they sufficient resources to support Statehood? That obviously would not apply to the Delegates.

But I think this is not—there is no written standard by which this test needs to be met.

The CHAIRMAN. So there is no generic legislation that has ever been used? It has been more or less dealt with differently on each one?

Mrs. VAN CLEVE. Ad hoc, correct. Yes. Unique.

The CHAIRMAN. In what I guess is the most recent dealing with American Samoa, were there certain tests that were put in place with that?

Mrs. VAN CLEVE. I don't think so. I think there was a little hesitancy about according a Delegate. I think this is corridor conversation, it is nothing that is a matter of public record, but I think there was some hesitancy in Samoa's case because its people are largely not citizens and it has been thought usual, certainly, and appropriate that members of the Congress be citizens of the United States. I think every Samoa Delegate that I know of, and this would be subject to check, has been naturalized, has become a citizen. As I said earlier, it is not hard to do at all. But I think that that gave pause, but obviously the pause was overcome.

The CHAIRMAN. In reference to Guam, were there certain tests that were put in place?

Mrs. VAN CLEVE. Nothing articulated that I am aware of. Guam had an informal Delegate for some years before he became elected as such. This was the celebrated Antonio B. Wonpat, who represented Guam splendidly for a very long time, and he did so out of a Washington office much as the Resident Representative from

the Northern Marianas does, though he had no status. He did not have the status of the Northern Marianas Representative.

The CHAIRMAN. So I guess when they granted the Delegate status, there weren't, to your memory, there weren't a list of things that they had to accomplish first? It was just determined that either they did get it or they didn't get it based on what was happening in the territory at the time?

Mrs. VAN CLEVE. That is correct, Mr. Chairman. That is my understanding.

The CHAIRMAN. Thank you very much.

Ms. Bordallo?

Ms. BORDALLO. I just have a closing remark, Mr. Chairman. I want to congratulate Ruth Van Cleve. You are very right. She is a walking encyclopedia of history. I want you to know, Mr. Chairman, that Mrs. Van Cleve has come out of retirement, so to speak, and she is now serving on our War Claims Commission, the Guam War Claims Commission. She has made a trip out to Guam and just about a week ago we had a very interesting meeting. I want to thank you, Ruth, for dedicating your service and your love for the people of the Pacific and serving on that commission.

Mr. Chairman, I want to go on record to thank you, because for however short it has been, I have made history today. I am a Ranking Member of the Resources Committee—

[Laughter.]

Ms. BORDALLO.—and it probably will never happen again.

[Laughter.]

Ms. BORDALLO. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you. Mrs. Van Cleve, I know as we work our way through this, we are going to have further questions of you, and if you would avail yourself to the Committee of what your sense of history and knowledge on these topics, I know it would be greatly appreciated by myself and I know by the staff, if you would help us in that regard.

Mrs. VAN CLEVE. I will be delighted to do that in any way I can.

The CHAIRMAN. Thank you very much for being here today.

Mrs. VAN CLEVE. Thank you.

The CHAIRMAN. I wanted to, in conclusion, thank the witnesses, all of the witnesses, for their valuable testimony and the members of the Committee for participating in this hearing today. As I have said in the past, there may be additional questions that members of the Committee have that they would like to submit to you in writing, if any of the witnesses could answer those in a timely fashion so that we can include it as part of the hearing record.

Again, I want to thank the panelists who made the effort to travel here and to participate in this hearing. As I said in the past, having been there now, I know just how long of a trip that is and how difficult it is and I greatly appreciate it. I look forward to working with all of you in the future and moving forward on this legislation. I thank you very much for the effort that you put in.

If there is no further business before the Committee, then the hearing is adjourned.

[Whereupon, at 12:22 p.m., the Committee was adjourned.]